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VICTIMS OF CRIME

HEARING

BEFORE THE

SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURES

OF THE

COMMITTEE ON THE JUDICIARY UNITED STATES SENATE

NINETY-SECOND CONGRESS

FIRST SESSION

ON

S. 16, S. 33, S. 750, S. 1946, S. 2087, S. 2426, S. 2748, S. 2856, S. 2994, and S. 2995

SEPTEMBER 29; NOVEMBER 30, 1971; AND MARCH 27, 1972

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VICTIMS OF CRIME

WEDNESDAY, SEPTEMBER 29, 1971

U.S. SENATE,
SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURES,
ON THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 3302, New Senate Office Building, Senator John L. McClellan (chair-

man of the subcommittee) presiding.

Present: Senators McClellan, Hruska, Kennedy, and Thurmond.
Also present: G. Robert Blakey, chief counsel; Malcolm D. Hawk, minority counsel; Elizabeth E. Bates, Frank P. Cihlar and Kenneth A. Lazarus, assistant counsels; and Mabel A. Downey, clerk.

Senator McClellan. The committee will come to order.

Today's hearing concerns S. 2087, the Police Officers' Benefit Act

of 1971, which I introduced on June 17, 1971.

Briefly, this bill would authorize the payment of a lump sum of \$50,000 to the dependent survivors of State and local police officers killed in the line of duty. We are all aware of the Nation's appalling crime rate and the toll that it takes on the life, property, and peace of mind of all Americans.

This bill I hope will make some small contribution to the reduction of that crime rate by properly recognizing the services of law enforcement officers who daily risk their lives to protect all of society

from the violence of those who live outside the law.

It is a sad and tragic fact that law enforcement officers do risk their lives daily and that risk is increasing. This is shown by the statistics concerning police deaths. The 1970 Uniform Crime Report of the Federal Bureau of Investigation shows that in the decade ending in 1970, 633 State and local law enforcement officials were violently killed while in the performance of their official duties. This figure includes only sworn officers and only deaths by felonious criminal action and not deaths by accident. While it does include District of Columbia officers and Park Police, it does not include Federal officers or prison guards.

The number of such deaths has been growing at a large rate. In 1970 there were 100 such deaths, a rise of 16 percent from the year before. As of September 15 of this year there have been 82 such deaths. Incidentally, the average age of the officers murdered in the decade of the 1960's was 25 years. Aside from the numbers, the great risks to policemen are emphasized by the manner in which these deaths occur. Many policemen are killed in what would seem to a layman to

be nonviolent circumstances.

To quote the Uniform Crime Report: "No arrest situation can be considered routine." In the last decade more officers were killed while attempting to make arrests than in any other type of situation. In 1970, seven officers were murdered while investigating suspicious persons or circumstances and six were killed while responding to calls about such things as family quarrels.

But the most tragic fact of all is that policemen have been killed in malicious, premeditated plots, plots formed for the express purpose of killing police officers. In 1970 of the 100 policemen killed, 19 were killed in ambush. Nineteen is a sharp increase over such deaths in

previous years.

The Subcommittee on Internal Security has held hearings on this matter and I would like to quote from Senator Scott's statement from their October 7, 1970 hearing:

With an alarming frequency, policemen, firemen, judicial officers and other public officials are being injured and killed, not in the performance of their official duties but because of what their official duties are, because to some demented minds a strike against a public official has become synonymous with a strike against problems that exist in our society.

Those committee hearings dealt with some of the instances in which officers have been murdered by premeditation and I can cite several examples. In Omaha, Nebr., on August 17, 1970, at 2 a.m. the police received a call about a woman screaming in a vacant house. Having been warned of a trap, the officers who were to deal with the call were covered by other officers in the area. The officers who went into the house found no one but there was a suitcase on the floor. One of the officers touched the suitcase, which exploded, killing that officer and wounded several others.

Less than 2 weeks after that in Philadelphia two park police officers were stopped by a man who shot and killed one of those officers. Other officers from the nearby guardhouse left to investigate, leaving a desk sergeant in the building. When the officers returned, that sergeant was lying on the floor. He had been shot five times while sitting at his desk.

In the Washington Sunday Star, June 13, 1971, there was a full-page article which hearing no objection, I shall introduce into the record. This article is entitled "Not Even Work in the Stationhouse Is Safe for Police These Days," and it gives more examples of these police murders.

(The article appears infra.)

One incident it describes took place at Riverside, Calif. On April 2 of this year two patrolmen were sent to investigate a reported burglary. Both were killed by gunshots. Later people at the location said there had been no burglary and no report to the police.

There are many, many other such stories and I would like to point out that aside from our concern for the policemen involved, everyone suffers directly because of these police killings, for it would be impossible for policemen not to be psychologically influenced by the possibility of an ambush on every call.

There is no need to dwell on the incredible horror of a situation in which a policeman must react with caution and inhibition in answer-

ing a call from someone who is in real danger.

This bill, of course, will not directly solve the problems of police killings, but it would serve as a means of expressing the moral support of our Nation—the moral support that our Nation owes to the

police officer and his family. Someone must actually contend with the violent elements of our society on a face-to-face basis. We must ask someone to do it. And the greater the risk involved, the greater our Nation's support and gratitude should be.

We look forward, we hope, to swift consideration in the passage of this bill because there is a growing concensus that now is the time to show our support for those who uphold the law at the risk of losing

their own lives.

I know that the mail I have received regarding this bill is 100 percent in favor of its passage. This hearing this morning will be confined to S. 2087, however, I do wish to state for the record that it is the Chair's intention to schedule additional hearings in the future on several related measures in the law enforcement field including S. 16, S. 33, S. 750, and S. 1946. I shall place in the record certain documents to which I have referred.

(S. 2087 together with a letter dated June 1, 1971, from the Office of the Attorney General and two amendments to S. 2087 intended to be proposed by Senator Thurmond follow. Bills included in subsequent

hearings, together with agency reports also follow.)

[S. 16, 92d Cong., first sess.] [Senator McClellan, Jan. 25, 1971]

A BILL to amend title IX of the Organized Crime Control Act of 1970 to provide civil remedies to victims of activities prohibited by said title, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Organized Crime Control Act of 1970 (84 Stat. 922), title 18, United States Code, section 1964, is amended as follows:

(1) In subsection (a) insert ", without regard to the amount in controversy,"

after "jurisdiction".

(2) In subsection (b) insert "subsection (a) of" after "under" each time it appears.

(3) In subsection (b) strike "action" and insert in lieu thereof "proceedings".

(4) Strike subsections (c) and (d) and insert in lieu thereof:

"(c) Any person may institute proceedings under subsection (a) of this section. In any proceeding brought by any person under subsection (a) of this section, relief shall be granted in conformity with the principles which govern the granting of injunctive relief from threatened loss or damage in other cases. Upon the execution of proper bond against damages for an injunction improvidently granted and a showing of immediate danger of irreparable loss or damage, a preliminary injunction may be issued in any action before a determination thereof upon its merits.

"(d) Whenever the United States is injured in its business or property by reason of any violation of section 1962 of this chapter, the Attorney General may bring a civil action in a district court of the United States, without regard to the amount in controversy, and shall recover the actual damages sustained by it,

and the cost of the action.

"(e) Any person who is injured in his business or property by reason of any violation of section 1962 of this chapter may bring a civil action in a district court of the United States, without regard to the amount in controversy, and shall recover threefold the actual damages sustained by him, and the cost of the

action, including a reasonable attorney's fee.

"(f) The Attorney General may upon timely application intervene in any civil action or proceeding brought under this chapter, if the Attorney General certifies that in his opinion the case is of general public importance. In such action or proceeding, the United States shall be entitled to the same relief as if it had instituted the action or proceeding.

"(g) A final judgment or decree rendered in favor of the United States in any criminal or civil action or proceeding under this chapter shall estop the defendant in any subsequent civil proceeding as to all matters respecting which said judg-

ment or decree would be an estoppel as between the parties thereto.

"(h) Except as hereinafter provided, any civil action under this section shall be barred unless it is commenced within five years after the cause of action

accrued. Whenever any civil or criminal action or proceeding, other than an action under subsection (d) of this section, is brought or intervened in by the United States to prevent, restrain, or punish any violation of section 1962 of this chapter the running of the period of limitations prescribed by this subsection with respect to any cause of action arising under subsections (c) and (e) of this section, which is based in whole or in part on any matter complained of in such action or proceeding by the United States, shall be suspended during the pendency of such action or proceeding by the United States and for two years thereafter."

SEC. 2. Title 18, United States Code, section 1965, is amended as follows:

(1) In subsection (b) strike "action under section 1964 of" and insert in lieu thereof "civil action or proceeding under".

(2) In subsection (c) strike "instituted by the United States".(3) In subsection (d) insert "civil or criminal" before "action".

SEC. 3. Title 18. United States Code, section 1966, is amended by striking "any civil action instituted under this chapter by the United States" in the first sentence and inserting in lieu thereof "any civil action or proceeding under this chapter in which the United States is a party".

Sec. 4. Title 18, United States Code, section 1967, is amended by striking "insti-

tuted by the United States".

SEC. 5. Title 18, United States Code, section 1968, is amended as follows:

(1) In the first sentence of subsection (a) striking "prior to the institution of a civil or criminal proceeding" and inserting in lieu thereof "before he institutes or intervenes in a civil or criminal action or proceeding".

(2) In paragraph (4) of subsection (f) striking "case" the first time it appears and inserting in lieu thereof "civil or criminal action" and striking "case" each

time thereafter and inserting in lieu thereof "action".

(3) In paragraph (5) of subsection (f) striking "case" each time it appears and inserting in lieu thereof "action".

(4) In paragraph (6) of subsection (f) striking "case" and inserting in lieu thereof "action".

Office of the Deputy Attorney General, Washington, D.C., September 3, 1971.

Hod. James O. Eastland, Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR SENATOR: This is in response to your request for the views of the Department of Justice on S. 16, a bill to amend Title IX of the Organized Crime Control Act of 1970, to provide civil remedies to victims of activities prohibited by said title.

Title IX of the Organized Crime Control Act of 1970 created in title 18, United States Code, a new chapter entitled "Racketeer Influenced and Corrupt Organizations." The substantive provision added by title IX is 18 U.S.C. 1962, which contains a three-fold standard (1) making unlawful the use or investment of income from "racketeering activity", or its proceeds, in the acquisition of an interest in an enterprise engaged in interstate commerce; (2) prohibiting the acquisition of any enterprise engaged in interstate commerce through a "pattern" of "racketeering activity." and (3) proscribing the operation of any enterprise engaged in interstate commerce through a "pattern" of "racketeering activity."

Section 1964 of title 18, as added by title IX of the Act, provides certain civil remedies for violations of section 1962, including proceedings by the United States in the district courts to prevent and restrain such violations, treble-damage actions by persons injured in their business or property, and collateral estoppel, in such proceedings, as to any judgment rendered in favor of the United States in a criminal proceeding under title IX. Subsequent sections added by the title, 1965–1968, contain special provisions relating to venue and process, expedition of actions, the closing of certain proceedings to the public, and civil in-

vestigative demands by the Attorney General.

S. 16 would adopt with appropriate modifications and refinement much of the language of the antitrust laws. Section 1964 would be amended to permit any person to institute a civil proceeding and authorize the court to grant immediate injunctive relief upon the execution of a bond against damages. The United States would have the power to sue in any instance where it is injured in its property or business by reason of a violation of section 1962, and the Attorney General would be empowered to intervene in any civil action or proceeding which

he determines is a case of "general public importance." In a case in which the United States intervened, it could be granted the same relief as if it had instituted the action. Collateral estoppel would be extended to include a judgment or decree rendered in favor of the United States in a civil action as well as a criminal proceeding.

The bill would also amend 18 U.S.C. 1964 by adding a new subsection (h) to provide for a five year statute of limitations and to suspend the running of the statute with respect to suits brought by private persons during the pendency of a section 1962 criminal proceeding or a private civil action or proceeding in

which the United States has intervened and for two years thereafter.

In addition, S. 16 would amend title IX to permit the district courts to entertain civil actions and proceedings without regard to the amount in controversy. I would also extend nationwide service of subpoenaes to private parties; permit expedition of actions in any case in which the United States is a party; allow the court to close proceedings between private persons; permit the Attorney General to issue a civil investigative demand before he institutes or intervenes in a civil or criminal action or proceeding; and substitute the word "action" for the word "case" in section 1968.

We would recommend for the sake of clarity that the word "thereafter" be stricken from the proposed 18 U.S.C. 1964(h), and that "after the entry of final judgment or the exhaustion of all appellate remedies by defendant or the United

States, whichever is later, be inserted in lieu thereof.

The Department of Justice recommends enactment of this legislation amended

as suggested above.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's Program.

Sincerely,

RICHARD G. KLEINDIENST, Deputy Attorney General.

[S. 33, 92d Cong., first sess.] [Senator Kennedy, Jan. 25, 1971]

A BILL To authorize the Attorney General to provide a group life insurance program for State and local government law enforcement officers

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Law Enforcement Officers' Group Life Insurance Act of 1971".

DEFINITIONS

Sec. 2. For the purposes of this title—

(1) The term "month" means a month which runs from a given day in one month to a day of the corresponding number in the next or specified succeeding month, except where the last month has not so many days, in which event it expires on the last day of the month.

(2) The term "full time" means such period or type of employment or duty

as may be prescribed by regulation promulgated by the Attorney General.

(3) The term "law enforcement officer" means, pursuant to regulations promulgated by the Attorney General, an individual who is employed full time by a State or a unit of local government primarily to patrol the highways or otherwise preserve order and enforce the laws.

(4) The term "State" means any State of the United States, the Common-

wealth of Puerto Rico, and any territory or possession of the United States.

(5) The term "unit of local government" means any city, county, township, town, borough, parish, village, or other general purpose subdivision of a State, or any Indian tribe which the Secretary of the Interior determines performs law enforcement functions.

ELIGIBLE INSURANCE COMPANIES

Sec. 3. (a) The Attorney General is authorized, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), to purchase from one or more life insurance companies a policy or policies of group life insurance to provide the benefits provided under this Act. Each such life insurance company must (1) be licensed to issue life insurance in each of the fifty States of

the United States and in the District of Columbia, and (2) as of the most recent December 31 for which information is available to the Attorney General, have in effect at least 1 per centum of the total amount of group life insurance which all life insurance companies have in effect in the United States.

(b) Any life insurance Company issuing such a policy shall establish an administrative office at a place and under a name designated by the Attorney

General.

(c) The Attorney General shall arrange with each life insurance company issuing any policy under this Act to reinsure, under conditions approved by him, portions of the total amount of insurance under such policy with such other life insurance companies (which meet qualifying criteria set forth by the Attorney General as may elect to participate in such reinsurance.

(d) The Attorney General may at any time discontinue any policy which

he has purchased from any insurance company under this Act.

PERSONS INSURED; AMOUNT

Sec. 4 (a) Any policy of insurance purchased by the Attorney General under this Act shall automatically insure any law enforcement officer on a full-time basis by a State or unit of local government which has (1) applied to the Attorney General for participation in the insurance program provided under this Act, and (2) agreed to deduct from such officer's pay the amount of the premium and forward such amount to the Department of Justice or such other agency or office as is designated by the Attorney General as the collection agency for such premiums. The insurance provided under this Act shall take effect from the first day agreed upon by the Attorney General and the responsible official of the State or unit of local government making application for participation in the program as to law enforcement officers then on the payroll, and as to law enforcement officers thereafter entering on full-time duty from the first day of such duty. The insurance provided by this Act shall so insure all such law enforcement officers unless any such officer elects in writing not to be insured under this Act. If any such officer elects not to be insured under this Act he may thereafter, if eligible, be insured under this Act upon written application, proof of good health, and compliance with such other terms and conditions as may be prescribed by the Attorney General.

(b) A law enforcement officer eligible for insurance under this Act is entitled to be insured for an amount of group life insurance, plus an equal amount of group accidental death and dismemberment insurance, in accordance with the

following schedule:

If annual pay is—		The amount of group insurance is—	
Greater than—	But not greater than—	Life	Accidental death and dis- memberment
)		\$10,000	\$10,000
8,000		11,000	11,000
9,000		12,000	12,000
310,000		13, 000	13,000
311,000		14,000	14, 000
312,000		15, 000	15, 000
313,000		16,000	16,000
314,000	15,000	17, 000	17,000
315,000		18,000	18, 000
316,000		19,000	19,000
517,000		20,000	20,000
18,000	19,000	21,000	21,000
19,000	20,000	22,000	22, 000
20,000		23, 000	23, 000
21,000	22,000	24, 000	24,000
22,000	23, 000	25, 000	25, 000
23,000	24, 000	26,000	26, 000
24,000	25, 000	27, 000	27, 000
25,000	26,000	28, 000	28, 000
26,000	27, 000	29,000	29,000
27,000	28,000	30,000	30,000
28,000	20,000	31,000	31,000
29,000		32, 000	32, 000

The amount of such insurance shall automatically increase at any time the amount of increases in the annual basic rate of pay places any such officer in

a new pay bracket of the schedule.

(c) Subject to the conditions and limitations approved by the Attorney General and which shall be included in the policy purchased by him, the group accidental death and dismemberment insurance shall provide for the following payments:

Loss

For loss of life_____

Loss of one hand or of one foot or loss of sight of one eye. Loss of two or more members or loss of

sight in both eyes.

Amount payable

Full amount shown in the schedule in subsec-

tion (b) of this section.

One-half of the amount shown in the schedule in subsection (b) of this section. Full amount shown in the schedule in subsection (b) of this section,

The aggregate amount of group accidental death and dismemberment insurance that may be paid in the case of any insured as the result of any one accident may not exceed the amount shown in the schedule in subsection (b) of this section.

(d) The Attorney General shall prescribe regulations providing for the conversion of other than annual rates of pay to annual rates of pay and shall specify

the types of pay included in annual pay.

TERMINATION OF COVERAGE

Sec. 5. Each policy purchased by the Attorney General under this Act shall contain a provision, in terms approved by the Attorney General, to the effect that any insurance thereunder on any law enforcement officer shall cease thirtyone days after (1) his separation or release from full-time duty as such an officer or (2) discontinuance of his pay as such an officer, whichever is earlier.

CONVERSION

Sec. 6. Each policy purchased by the Attorney General under this Act shall contain a provision for the conversion of such insurance effective the day following the date such insurance would cease as provided in section 5 of this Act. During the period such insurance is in force the insured, upon request to the office established under section 3(b) of this Act, shall be furnished a list of life insurance companies participating in the program established under this Act and upon written application (within such period) to the participating company selected by the insured and payment of the required premiums be granted insurance without a medical examination on a permanent plan then currently written by such company which does not provide for the payment of any sum less than the face value thereof or for the payment of an additional amount of premiums if the insured engages in law enforcement activities. In addition to the life insurance companies participating in the program established under this Act, such list shall include additional life insurance companies (not so participating) which meet qualifying criteria, terms, and conditions established by the Attorney General and agree to sell insurance to any eligible insured in accordance with the provisions of this section.

WITHHOLDING OF PREMIUMS FROM PAY

Sec. 7. During any period in which a law enforcement officer is insured under a policy of insurance purchased by the Attorney General under this Act, his employer shall withhold each month from his basic or other pay until separation or release from full-time duty as a law enforcement officer an amount determined by the Attorney General to be such officer's share of the cost of his group life insurance and accidental death and dismemberment insurance. Any such amount not withheld from the basic or other pay of such officer insured under this Act while on full-time duty as a law enforcement officer, if not otherwise paid, shall be deducted from the proceeds of any insurance thereafter payable. The initial monthly amount determined by the Attorney General to be charged any law enforcement officer for each unit of insurance under this Act may be continued from year to year, except that the Attorney General may redetermine such monthly amount from time to time in accordance with experience.

SHARING OF COST OF INSURANCE

SEC. 8. For each month any law enforcement officer is insured under this title the United States shall bear not to exceed one-third of the cost of such

insurance or such lesser amount as may from time to time be determined by the President to be a practicable and equitable obligation of the United States in assisting the States and units of local government in recruiting and retaining personnel for their law enforcement forces.

INVESTMENT; EXPENSES

- Sec. 9. (a) The sums withheld from the basic or other pay of law enforcement officers as premiums for insurance under section 7 of this Act and any portion of the cost of such insurance borne by the United States under section 8 of this Act, together with the income derived from any dividends or premium rate readjustment from insurers shall be deposited to the credit of a revolving fund established in the Treasury of the United States. All premium payments on any insurance policy or policies purchased under this Act and the administrative cost of the insurance program established by this Act to the department or agency vested with the responsibility for its supervision shall be paid from the revolving fund.
- (b) The Attorney General is authorized to set aside out of the revolving fund such amounts as may be required to meet the administrative cost of the program to the department or agency designated by him, and all current premium payments on any policy purchased under this Act. The Secretary of the Treasury is authorized to invest in and to sell and retire special interest-bearing obligations of the United States for the account of the revolving fund. Such obligations issued for this purpose shall have maturities fixed with due regard for the needs of the fund and shall bear interest at a rate equal to the average market yield (computed by the Secretary of the Treasury on the basis of market quotations as of the end of the calendar month next preceding the date of issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest of such obligation shall be the multiple of one-eighth of 1 per centum nearest market yield.

BENEFICIARIES; PAYMENT OF INSURANCE

Sec. 10. (a) Any amount of insurance in force under this Act on any law enforcement officer or former law enforcement officer on the date of his death shall be paid, upon establishment of a valid claim therefor, to the person or persons surviving at the date of his death, in the following order of precedence:

First, to the beneficiary or beneficiaries as the law enforcement officer or former law enforcement officer may have designated by a writing received in his employer's office prior to his death;

Second, if there be no such beneficiary, to the widow or widower of such officer or former officer;

Third, if none of the above, to the child or children of such officer or former

officer and descendants of deceased children by representation;

Fourth, if none of the above, to the parents of such officer or former officer or the survivor of them;

Fifth, if none of the above, to the duly appointed executor or administrator of the estate of such officer or former officer;

Sixth, if none of the above, to other next of kin of such officer or former officer entitled under the laws of domicile of such officer or former officer at the time of his death.

(b) If any person otherwise entitled to payment under this section does not make claim therefor within one year after the death of the law enforcement officer or former law enforcement officer, or if payment to such person within that period is prohibited by Federal statute or regulation, payment may be made in the order of precedence as if such person had predeceased such officer or former

officer, and any such payment shall be a bar to recovery by any other person.

(c) If, within two years after the death of a law enforcement officer or former law enforcement officer, no claim for payment has been filed by any person entitled under the order of precedence set forth in this section, and neither the Attorney General nor the administrative office established by any insurance company pursuant to this Act has received any notice that any such claim will be made, payment may be made to a claimant as may in the judgment of the Attorney General be equitably entitled thereto, and such payment shall be a bar

to recovery by any other person. If, within four years after the death of the law enforcement officer or former law enforcement officer, payment has not been made pursuant to this Act and no claim for payment by any person entitled under this Act is pending, the amount payable shall escheat to the credit of the revolving

fund referred to in section 8 of this Act.

(d) The law enforcement officer may elect settlement of insurance under this Act either in a lump sum or in thirty-six equal monthly installments. If no such election is made by such officer the beneficiary may elect settlement either in a lump sum or in thirty-six equal monthly installments. If any such officer has elected settlement in a lump sum, the beneficiary may elect settlement in thirty-six equal monthly installments.

BASIC TABLES OF PREMIUMS; READJUSTMENT OF RATES

Sec. 11. (a) Each policy or policies purchased under this Act shall include for the first policy year a schedule of basic premium rates by age which the Attorney General shall have determined on a basis consistent with the lowest schedule of basic premium rates generally charged for new group life insurance policies issued to large employers, this schedule of basic premium rates by age to be applied, except as otherwise provided in this section, to the distribution by age of the amount of group life insurance and group accidental death and dismemberment insurance under the policy at its date of issue to determine an average basic permium per \$1,000 of insurance. Each policy so purchased shall also include provisions whereby the basic rates of premium determined for the first policy year shall be continued for subsequence policy years, except that they may be readjusted for any subsequent year, based on the experience under the policy, such readjustment to be made by the insurance company issuing the policy on a basis determined by the Attorney General in advance of such year to be consistent with the general practice of life insurance companies under policies of group life insurance issued to large employers.

(b) Each policy so purchased shall include a provision that, in the event the Attorney General determines that ascertaining the actual age distribution of the amounts of group life insurance in force at the date of issue of the policy or at the end of the first or any subsequent year of insurance thereunder would not be possible except at a disproportionately high expense, the Attorney General may approve the determination of a tentative average group life premium, for the first or any subsequent policy year, in lieu of using the actual age distribution. Such tentative average premium rate shall be redetermined by the Attorney General during any policy year upon request by the insurance company issuing the policy, if experience indicates that the assumptions made in determining the tentative average premium rate for that policy year were incorrect.

(c) Each policy so purchased shall contain a provision stipulating the maximum expense and risk charges for the first policy year, which charges shall have been determined by the Attorney General on a basis consistent with the general level of such charges made by life insurance companies under policies of group life insurance issued to large employers. Such maximum charges shall be continued from year to year, except that the Attorney General may redetermine such maximum charges for any year either by agreement with the insurance company or companies issuing the policy or upon written notice given by the Attorney General to such companies at least one year in advance of the beginning of the year for which such redetermined maximum charges will be effective.

(d) Each such policy shall provide for an accounting to the Attorney General not later than ninety days after the end of each policy year, which shall set forth, in a form approved by the Attorney General, (1) the amounts of premiums actually accrued under the policy from its date of issue to the end of such policy year, (2) the total of all mortality, dismemberment, and other claim charges incurred for that period, and (3) the amounts of the insurers' expense and risk charge for that period. Any excess of the total of items (1) over the sum of items (2) and (3) shall be held by the insurance company issuing the policy as a special contingency reserve to be used by such insurance company for charges under such policy only, such reserve to bear interest at a rate to be determined in advance of each policy year by the insurance company issuing the policy, which rate shall be approved by the Attorney General as being consistent with the rates generaly used by such company or companies for similar funds held under other group life insurance policies. If and when the Attorney General determines that such special contingency reserve has attained an amount esti-

mated by the Attorney General to make satisfactory provision for adverse fluctuations in future charges under the policy, and further excess shall be deposited to the credit of the revolving funds established under this Act. If and when such policy is discontinued, and if, after all charges have been made, there is any positive balance remaining in such special contingency reserve, such balance shall be deposited to the credit of the revolving fund, subject to the right of the insurance company issuing the policy to make such deposit in equal monthly installments over a period of not more than two years.

BENEFIT CERTIFICATES

Sec. 12. The Attorney General shall arrange to have each member insured under a policy purchased under this Act receive a certificate setting forth the benefits to which the member is entitled thereunder, to whom such benefit shall be payable, to whom claims should be permitted, and summarizing the provisions of the policy principally affecting the member. Such certificate shall be in lieu of the certificate which the insurance company would otherwise be required to issue.

FEDERAL ASSISTANCE TO STATES AND LOCALITIES FOR EXISTING GROUP LIFE INSURANCE PROGRAMS

Sec. 13. (a) Any State or unit of local government having an existing program of group life insurance for law enforcement officers which desires to receive Federal assistance under the provisions of this section shall—

(1) inform the law enforcement officers of the benefits and premium costs of both the Federal program and the State or unit of local government program, and of the intention of the State or unit of local government to

apply for the Federal assistance under this section; and

(2) hold a referendum of law enforcement officers of the State or unit of local government to determine whether such officers want to continue in the existing group life insurance program or apply for the Federal program under the provisions of this Act.

The results of the referendum shall be binding on the State or unit of local

government.

(b) If there is an affirmative vote of a majority of such officers to continue in such State or local program and the other requirements set forth in subsection (a) are met, a State or unit of local government may apply for Federal assistance for such program for group life insurance under such rules and regulations as the Attorney General may establish. Assistance under this section shall not exceed three-fourths of the Federal contribution which would otherwise have been available under section 8 of this Act, and shall be reduced to the extent that the Attorney General determines that the existing program of any State or unit of local government does not give as complete coverage as the Federal program. Assistance under this section shall be used to reduce proportionately the premiums paid by the State or the unit of local government and by the appropriate law enforcement officers under such existing program.

ADMINISTRATION

Sec. 14. (a) The Attorney General may delegate any of his functions under this Act, except the making of regulations, to any officer or employee of the

Department of Justice.

(b) In administering the provisions of this Act, the Attorney General is authorized to utilize the services and facilities of any agency of the Federal Government or a State government in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may be agreed upon.

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act. Until specific appropriations are made for carrying out the purposes of this Act, any appropriation made to the Department of Justice or the Law Enforcement Assistance Administration for grants, activities or contracts shall, in the discretion of the Attorney General, be available for payments of obligations arising under this Act.

ADVISORY COUNCIL ON LAW ENFORCEMENT OFFICERS' GROUP LIFE INSURANCE

SEC. 15. There is hereby established an Advisory Council on Law Enforce-

ment Officers' Group Life Insurance consisting of the Attorney General as Chairman, the Secretary of the Treasury, the Secretary of Health, Education, and Welfare, and the Director of the Office of Management and Budget, each of whom shall serve without additional compensation. The Council shall meet once a year, or oftener, at the call of the Attorney General, and shall review the administration of this Act and advise the Attorney General on matters of policy relating to his activities thereunder. In addition, the Attorney General may solicit advice and recommendations from any State or unit of local government participating in the law enforcement officers' group life insurance program.

JURISDICTION OF COURTS

Sec. 16. The district courts of the United States shall have original jurisdiction of any civil action or claim against the United States founded upon the Act.

PREMIUM PAYMENTS ON BEHALF OF LAW ENFORCEMENT OFFICERS

Sec. 17. Nothing in this Act shall be construed to preclude any State or unit of local government from making payments on behalf of law enforcement officers of the premiums required to be paid by them for any group life insurance program authorized by this Act or any such program carried out by a State or unit of local government.

EFFECTIVE DATE

SEC. 18. The insurance provided for under this Act shall be placed in effect for the law enforcement officers of any State or unit of local government participating in the law enforcement officers' group life insurance program on a date mutually agreeable to the Attorney General, the insurer or insurers, and the participating State or unit of local government.

Office of the Deputy Attorney General, Washington, D.C., October 5, 1971.

Hon. James O. Eastland, Chairman, Committee on the Judciary, U.S. Senate, Washington, D.C.

DEAR SENATOR: This is in response to your request for the views of the Department of Justice on S. 33, the "Law Enforcement Officers' Group Life Insur-

S. 33 follows closely the provisions contained in the Servicemen's Group Life Insurance statute, 38 U.S.C. 765 et seq. and the Federal Employees' Group Life Insurance statute, 5 U.S.C. 8701 et seq. Thus, its purpose is to establish a group life insurance program for State and local law enforcement officers with the major risks being assumed by compensated commercial insurance companies. Under Section 8 of the bill, the President may determine the amount of the Federal contribution to the program subject to a maximum of one-third of the cost of such insurance.

Currently there is no Federal program of insurance for local law enforcement personnel. As you know, however, on June 11 of this year, the Attorney General transmitted to Congress draft legislation providing for a \$50,000 death benefit for families of police officers killed in the performance of duty. This proposal has been introduced as S. 2087, H.R. 9139 and H.R. 9177. Similar legislation has already been enacted in the District of Columbia.

We favor the death benefit proposal since it would be easier to administer and

would accomplish, to a large extent, the purposes of the present bill.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program and that enactment of S. 2087 would be in accord with the program of the President.

Sincerely,

RICHARD G. KLEINDIENST,
Deputy Attorney General.

[S. 750, 92d Cong., first sess.] [Senator Mansfield, Feb. 11, 1971]

A BILL To provide for the compensation of persons injured by certain criminal acts, to make grants to States for the payment of such compensation, and for other purposes

76-162--72---2

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—SHORT TITLE AND DEFINITIONS

Section 1. This Act may be cited as the "Criminal Injuries Compensation Act of 1971".

DEFINITIONS

Sec. 102. As used in this Act the term-

(1) "child" means an unmarried person who is under eighteen years of age and includes a stepchild or an adopted child, and a child conceived prior to but born after the death of the victim;

(2) "Commission" means the Violent Crimes Compensation Commission

established by this Act;

(3) "dependent" means those who were wholly or partially dependent upon the income of the victim at the time of the death of the victim or those for whom the victim was legally responsible;

(4) "personal injury" means actual bodily harm and includes pregnancy,

mental distress, nervous shock, and loss of reputation;

(5) "relative" means the spouse, parent, grandparent, stepfather, stepmother, child, and grandchild, siblings of the whole or half blood, spouse's parents;

(6) "victim" means a person who is injured, killed, or dies as the result of injuries caused by any act or omission of any other person which is within the description of any of the offenses specified in section 302 of this Act;

(7) "guardian" means one who is entitled by common law or legal appointment to care for and manage the person or property or both of a child or

incompetent; and

(8) "incompetent" means a person who is incapable of managing his own affairs, whether adjudicated or not.

TITLE II—ESTABLISHMENT OF VIOLENT CRIMES COMPENSATION COMMISSION

Sec. 201. (a) There is hereby established an independent agency within the executive branch of the Federal Government to be known as the Violent Crimes Compensation Commission. The Commission shall be composed of three members to be appointed by the President, by and with the advice and consent of the Senate. The President shall designate one of the members of the Commission as Chairman, who shall have been a member of the bar of a Federal court or of the highest court of a State for at least eight years.

(b) There shall be appointed by the President, by and with the advice and consent of the Senate, an Executive Secretary and a General Counsel to perform such duties as the Commission shall prescribe in accordance with the objectives

of this Act.

(c) No member of the Commission shall engage in any other business, voca-

tion, or employment.

(d) Except as provided in section 206(1) of this Act, the Chairman and one other member of the Commission shall constitute a quorum. Where opinion is divided and only one other member is present, the opinion of the Chairman shall prevail.

(e) The Commission shall have an official seal.

FUNCTIONS OF THE COMMISSION

Sec. 202. In order to carry out the purposes of this Act, the Commission shall—

(1) receive and process applications under the provisions of this Act for compensation for personal injury resulting from violent acts in accordance with title III of this Act;

(2) pay compensation to victims and other beneficiaries in accordance with the provisions of this Act;

(3) hold such hearings, sit and act at such times and places, and take such testimony as the Commission or any member thereof may deem advisable;

(4) promulgate standards and such other criteria as required by section 504 of this Act; and

(5) make grants in accordance with the provisions of title V of this Act.

ADMINISTRATIVE PROVISIONS

Sec. 203. (a) The Commission is authorized in carrying out its functions under this Act to—

(1) appoint and fix the compensation of such personnel as the Commission deems necessary in accordance with the provisions of title 5, United States

Code:

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed \$100 a day for individuals;

(3) promulgate such rules and regulations as may be required to carry

out the provisions of this Act;

(4) appoint such advisory committees as the Director may determine

to be desirable to carry out the provisions of this Act;

(5) designate representatives to serve or assist on such advisory committees as the Director may determine to be necessary to maintain effective liaison with Federal agencies and with State and local agencies developing or carrying out policies or programs related to the purposes of this Act;

(6) use the services, personnel, facilities, and information (including suggestions, estimates, and statistics) of Federal agencies and those of State and local public agencies and private institutions, with or without

reimbursement therefor;

(7) without regard to section 529 of title 31, United States Code, to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of his functions, with any public agency, or with any person, firm, association, corporation, or educational institution, and make grants to any public agency or private nonprofit organization;

(8) request such information, data, and reports from any Federal agency as the Director may from time to time require and as may be produced

consistent with other law; and

(9) arrange with the heads of other Federal agencies for the performance of any of his functions under this title with or without reimbursement and, with the approval of the President delegate and authorize the redelegation

of any of his powers under this Act.

(b) Upon request made by the Administrator each Federal agency is authorized and directed to make its services, equipment, personnel, facilities, and information (including suggestions, estimates and statistics) available to the greatest practicable extent to the Administration in the performance of its functions.

TERMS AND COMPENSATION OF COMMISSION MEMBERS

Sec. 204. (a) Section 5314, title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(55) Chairman, Violent Crimes Commission".

(b) Section 5315, title 5, United States Code, is amended by adding at the end thereo fthe following new paragraph:

"(95) Member, Violent Crimes Commission".

(c) Section 5316, title 5, United States Code, is amended by adding at the thereof the following new paragraph:

"(95) Members, Violent Crimes Commission".

"(131) General Counsel, Violent Crimes Commission".

(d) The term of office of each member of the Commission taking office after December 31, 1971, shall be eight years, except that (1) the terms of office of the members first taking office after December 31, 1971, shall expire as designated by the President at the time of the appointment, one at the end of four years, one at the end of six years, and one at the end of eight years, after December 31, 1971; and (2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

(e) Each member of the Commission shall be eligible for reappointment.

(f) A vacancy in the Commission shall not affect its powers.

(g) Any member of the Commission may be removed by the President for

inefficiency, neglect of duty, or malfeasance in office.

(h) All expenses of the Commission, including all necessary traveling and subsistence expenses of the Commission outside the District of Columbia incurred by the members or employees of the Commission under its orders, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the Executive Secretary, or his designee.

PRINCIPAL OFFICE

Sec. 205. (a) The principal office of the Commission shall be in or near the District of Columbia, but the Commission or any duly authorized representative may exercise any or all of its powers in any place.

(b) The Commission shall maintain an office for the service of process and pa-

pers within the District of Columbia.

PROCEDURES OF THE COMMISSION

SEC. 206. The Commission may-

(1) subpena and require production of documents in the manner of the Securities and Exchange Commission as required by subsection (c) of section 18 of the Act of August 26, 1935, and the provisions of subsection (d) of such section shall be applicable to all persons summoned by subpena or otherwise to attend or testify or produce such documents as are described therein before the Commission, except that no subpena shall be issued except under the signature of the Chairman, and application to any court for aid in enforcing such subpena may be made only by the Chairman. Subpenas shall be served by any person designated by the Chairman;

(2) administer oaths, or affirmations to witnesses appearing before the Commission, receive in evidence any statement, document, information, or matter that may in the opinion of the Commission contribute to its functions under this Act, whether or not such statement, document, information, or matter would be admissible in a court of law, except that any evidence introduced by or on behalf of the person or persons charged with causing the injury or death of the victim, any request for a stay of the Commission's action, and the fact of any award granted by the Commission shall not be admissible against such person or persons in any prosecution for such injury

or death.

TITLE III-AWARD AND PAYMENT OF COMPENSATION

AWARDING COMPENSATION

Sec. 301. (a) In any case in which a person is injured or killed by any act or omission of any other person which is within the description of the offenses listed in section 302 of this Act, the Commission may, in its discretion, upon an application, order the payment of, and pay, compensation in accordance with the provisions of this Act, if such act or omission occurs—

(1) within the "special maritime and territorial jurisdiction of the United

States" as defined in section 7 of title 18 of the United States Code; or

(2) within the District of Columbia.

(b) The Commission may order the payment of compensation—

(1) to or on behalf of the injured person; or

(2) in the case of the personal injury of the victim, where the compensation is for pecuniary loss suffered or expenses incurred by any person responsible for the maintenance of the victim, to that person;

(3) in the case of the death of the victim, to or for the benefit of the dependents or closest relative of the deceased victim, or any one or more

of such dependents;

(4) in the case of a payment for the benefit of a child or incompetent the payee shall file an accounting with the Commission no later than January 31 of each year for the previous calendar year;

(5) in the case of the death of the victim, to any one or more persons who

suffered pecuniary loss with relation to funeral expenses.

(c) For the purposes of this Act, a person shall be deemed to have intended

an act or omission notwithstanding that by reason of age, insanity, drunkenness,

or otherwise he was legally incapable of forming a criminal intent.

(d) In determining whether to make an order under this section, or the amount of any award, the Commission may consider any circumstances it determines to be relevant, including the behavior of the victim which directly or indirectly contributed to his injury or death, unless such injury or death resulted from the victim's lawful attempt to prevent the commission of a crime or to apprehend an offender.

(e) No order may be made under this section unless the Commission, sup-

ported by substantial evidence, finds that-

(1) such an act or omission did occur; and

(2) the injury or death resulted from such act or omission.

(f) An order may be made under this section whether or not any person is prosecuted or convicted of any offense arising out of such act or omission, or if such act or omission is the subject of any other legal action. Upon application from the Attorney General or the person or persons alleged to have caused the injury or death, the Commission shall suspend proceedings under this Act until such application is withdrawn or until a prosecution for an offense arising out of such act or omission is no longer pending or imminent. The Commission may suspend proceedings in the interest of justice if a civil action arising from such act or omission is pending or imminent.

OFFENSES TO WHICH THIS ACT APPLIES

SEC. 302. The Commission may order the payment of, and pay, compensation in accordance with the provisions of this Act for personal injury or death which resulted from offenses in the following categories:

(1) assault with intent to kill, rob, rape;

(2) assault with intent to commit mayhem;

(3) assault with a dangerous weapon;

(4) assault:

(5) mayhem;

- (6) malicious disfiguring:
- (7) threats to do bodily harm; (8) lewd, indecent, or obscene acts;
- (9) indecent act with children;

(10) arson;

- (11) kidnaping;
- (12) robbery:
- (13) murder:
- (14) manslaughter, voluntary;

(15) attempted murder;

(16) rape;

(17) attempted rape;

(18) or other crimes involving force to the person.

APPLICATION FOR COMPENSATION

Sec. 303. (a) In any case in which the person entitled to make an application is a child, or incompetent, the application may be made on his behalf by any person acting his parent or attorney.

(b) Where any application is made to the Commission under this Act, the applicant, or his attorney, and any attorney of the Commission, shall be entitled

to appear and be heard.

(c) Any other person may appear and be heard who satisfies the Commission that he has a substantial interest in the proceedings.

(d) Every person appearing under the preceding subsections of this section shall have the right to produce evidence and to cross-examine witnesses.

(e) If any person has been convicted of any offense with respect to an act or omission on which a claim under this Act is based, proof of that conviction shall, unless an appeal against the conviction or a petition for a rehearing or certiorari in respect of the charge is pending or a new trial or rehearing has been ordered, be taken as conclusive evidence that the offense has been committed.

ATTORNEY'S FEES

Sec. 304. (a) The Commission shall publish regulations providing that an attorney shall, at the conclusion of proceedings under this Act, file with the agency a statement of the amount of fee charged in connection with his services

rendered in such proceedings.

(b) After the fee information is filed by an attorney under subsection (a) of this section, the Commission may determine, in accordance with such published rules or regulations as it may provide, that such fee charged is excessive. If, after notice to the attorney of this determination, the Commission and the attorney fail to agree upon a fee, the Commission may, within ninety days after the receipt of the information required by subsection (a) of this section, petition the United States district court in the district in which the attorney maintains an office, and the court shall determine a reasonable fee for the services rendered by the attorney.

(c) Any attorney who willfully charges, demands, receives, or collects for services rendered in connection with any proceedings under this Act any amount in excess of that allowed under this section, if any compensation is paid, shall be fined not more than \$2,000 or imprisoned not more than one year, or both.

NATURE OF THE COMPENSATION

Sec. 305. The Commission may order the payment of compensation under this Act for—

(1) expenses actually and reasonably incurred as a result of the personal

injury or death of the victim;

(2) loss of earning power as a result of total or partial incapacity of such victim;

(3) pecuniary loss to the dependents of the deceased victim;

(4) pain and suffering of the victim; and

(5) any other pecuniary loss resulting from the personal injury or death of the victim which the Commission determines to be reasonable.

FINALITY OF DECISION

Sec. 306. The orders and decisions of the Commission shall be reviewable in the appropriate court of appeals, except that no trial de novo of the facts determined by the Commission shall be allowed.

LIMITATIONS UPON AWARDING COMPENSATION

Sec. 307. (a) No order for the payment of compensation shall be made under section 501 of this Act unless the application has been made within two years after the date of the personal injury or death.

(b) No compensation shall be awarded under this Act to or on behalf of any

victim in an amount in excess of \$25,000.

(c) No compensation shall be awarded if the victim was at the time of the personal injury or death living with the offender as his spouse or in situations when the Commission at its discretion feels unjust enrichment to or on behalf of the offender would result.

TERMS AND PAYMENT OF THE ORDER

Sec. 308. (a) Except as otherwise provided in this section, any order for the payment of compensation under this Act may be made on such terms as the

Commission deems appropriate.

(b) The Commission shall deduct from any payments awarded under section 301 of this Act any payments received by the victim or by any of his dependents from the offender or from any person on behalf of the offender, or from the United States (except those received under this Act), a State or any of its subdivisions, for personal injury or death compensable under this Act, but only to the extent that the sum of such payments and any award under this Act are in excess of the total compensable injuries suffered by the victim as determined by the Commission.

(c) The Commission shall pay to the person named in the order the amount

named therein in accordance with the provisions of such order.

TITLE IV—RECOVERY OF COMPENSATION

RECOVERY FROM OFFENDER

SEC. 401. (a) Whenever any person is convicted of an offense and an order for the payment of compensation is or has been made under this Act for a personal

injury or death resulting from the act or omission constituting such offense, the Attorney General may within—years institute an action against such person for the recovery of the whole or any specified part of such compensation in the district court of the United States for any judicial district in which such person resides or is found. Such court shall have jurisdiction to hear, determine, and render judgment in any such action.

(b) Process of the district court for any judicial district in any action under this section may be served in any judicial district of the United States by the United States marshal thereof. Whenever it appears to the court in which any acion under this section is pending that other parties should be brought before the court in such action, the court may cause such other parties to be summoned

from any judicial district of the United States.

(c) The Commission shall provide to the Attorney General such information, data, and reports as the Attorney General may require to institute actions in accordance with this section.

EFFECT ON CIVIL ACTIONS

Sec. 402. An order for the payment of compensation under this Act shall not affect the right of any person to recover damages from any other person by a civil action for the injury or death.

TITLE V-VIOLENT CRIMES COMPENSATION GRANTS

GRANTS AUTHORIZED

Sec. 501. Under the supervision and direction of the Commission the Executive Secretary is authorized to make grants to States to pay the Federal share of the costs of State programs to compensate victims of violent crimes.

ELIGIBILITY FOR ASSISTANCE

Sec. 502. (a) A State is eligible for assistance under this title only if the Executive Secretary, after consultation with the Attorney General determines, pursuant to objective criteria established by the Commission under section 504, that such State has enacted legislation of general applicability within such State—

(1) establishing a State agency having the capacity to hear and determine claims brought by or on behalf of victims of violent crimes and order the

payment of such claims;

(2) providing for the payment of compensation for personal injuries or death resulting from offenses in categories established pursuant to section 504;

(3) providing for the payment of compensation for-

(A) expenses actually and reasonably incurred as a result of the personal injury or death of the victim;

(B) loss of earning power as a result of total or partial incapacity

of such victim;

(C) pecuniary loss to the dependents of the deceased victims;

(D) pain and suffering of the victim; and

(E) any other pecuniary loss resulting from the personal injury or death of the victim which the Commission determines to be reasonable, and which is based on a schedule substantially similar to that provided in title III of this Act.

(4) containing adequate provisions for the recovery of compensation sub-

stantially similar to those contained in title IV of this Act.

STATE PLANS

Sec. 503. (a) Any State desiring to receive a grant under this title shall submit to the Commission a State plan. Each such plan shall—

(1) provide that the program for which assistance under this title is sought will be administered by or under the supervision of a State agency;

(2) set forth a program for the compensation of victims of violent crimes which is consistent with the requirements set forth in section 502;

(3) provide assurances that the State will pay from non-Federal sources the remaining cost of such program;

(4) provide that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State under this title; and

(5) provide that the State will submit to the Executive Secretary—

(A) periodic reports evaluating the effectiveness of payments received

under this title in carrying out the objectives of this Act, and

(B) such other reports as may be reasonably necessary to enable the Executive Secretary to perform his functions under this title, including such reports as he may require to determine the amounts which local public agencies of that State are eligible to receive for any fiscal year, and assurances that such State will keep such records and afford such access thereto as the Executive Secretary may find necessary to assure the correctness and verification of such reports.

(b) The Executive Secretary shall approve a plan which meets the requirements specified in subsection (a) of this section and he shall not finally disapprove a plan except after reasonable notice and opportunity for a hearing to

· such State.

BASIC CRITERIA

Sec. 504. As soon as practicable after the enactment of this Act, the Commission shall by regulations prescribe criteria to be applied under section 502. In addition to other matters, such criteria shall include standards for—

(1) the categories of offenses for which payment may be made;

(2) such other terms and conditions for the payment of such compensation as the Commission deems appropriate.

PAYMENTS

Sec. 505. (a) The Executive Secretary shall pay in any fiscal year to each State which has a plan approved pursuant to this title for that fiscal year the Federal share of the cost of such plan as determined by him.

(b) The Federal share of programs covered by the State plan shall be 75 per

centum for any fiscal year.

(c) Payments under this section may be made in installments, in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

(d) Grants made under this section pursuant to a State plan for programs and projects in any one State shall not exceed in the aggregate 15 per centum of the aggregate amount of funds authorized to be appropriated under section 603.

WITHHOLDING OF GRANTS

Sec. 506. Whenever the Executive Secretary, after reasonable notice and opportunity for a hearing to any State, finds—

(1) that there has been a failure to comply substantially with any requirement set forth in the plan of that State approved under section 503; or

(2) that in the operation of any program assisted under this Act there is a failure to comply substantially with any applicable provision of this Act:

the Executive Secretary shall notify such State of his findings and that no further payments may be made to such State under this Act until he is satisfied that there is no longer any such failure to comply, or the noncompliance will be promptly corrected.

REVIEW AND AUDIT

Sec. 507. The Executive Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination, to any books, documents, papers, and records of a grantee that are pertinent to the grant received.

DEFINITION

Sec. 508. For the purpose of this title the term "State" means each of the several States.

TITLE VI-MISCELLANEOUS

REPORTS TO THE CONGRESS

SEC. 601. The Commission shall transmit to the President and to the Congress annually a report of its activities under this Act including the name of each applicant, a brief description of the facts in each case, and the amount, if any, of compensation awarded, and the number and amount of grants to States under title V.

PENALTIES

Sec. 602. The provisions of section 1001 of title 18 of the United States Code shall apply to any application, statement, document, or information presented to the Commission under this Act.

AUTHORIZATION OF APPROPRIATIONS

Sec. 603. (a) There are authorized to be appropriated for the purpose of making grants under title V of this Act; \$ for the fiscal year ending June 30, 1972; \$ for the fiscal year ending June 30, 1973; and \$ for the fiscal year ending June 30, 1974.

(b) There are hereby authorized to be appropriated such sums as may be

necessary to carry out the other provisions of this Act.

EFFECTIVE DATE

Sec. 604. This Act shall take effect on January 1, 1971.

Office of the Deputy Attorney General, Washington, D.C., September 22, 1971.

Hon. James O. Eastland, Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR SENATOR EASTLAND: This is in response to your request for the views of the Department of Justice on S. 759, "Criminal Injuries Compensation Act of

1971."

The proposed legislation would establish a three-member Commission empowered to compensate the victims of certain violent crimes committed within federal jurisdiction. In addition, the Commission would be authorized to make federal grants of up to seventy-five percent of the cost of similar State compensation programs. To the best of our knowledge, California, Hawaii, Maryland, Massachusetts and New York now have compensation programs, although in some cases the programs are more restrictive than the standards proposed in S. 750.

The Department of Justice recommends against enactment of S. 750 at this time. The Department is currently undertaking a study of the Final Report of the National Commission on Reform of Federal Criminal Laws. That report addresses the compensation issue in terms of restitution by the criminal. It is the Department's view that restitution and other forms of compensation should be considered together as part of this study and that enactment of legislation

such as S. 750 would be premature at this time.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

RICHARD G. KLEINDIENST, Deputy Attorney General.

[S. 1946, 92d Cong., first sess.] [Senator Humphrey, May 25, 1971]

A BILL To authorize the Attorney General to provide a group life insurance program for State and local government law enforcement and firefighting officers

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Law Enforcement and Firefighting Officers' Group Life Insurance Act of 1971".

DEFINITIONS

Sec. 2. For the purposes of this title-

(1) The term "month" means a month which runs from a given day in one month to a day of the corresponding number in the next or specified succeeding month, except where the last month has not so many days, in which event it

expires on the last day of the month.

(2) The term "law enforcement or firefighting officer" means, pursuant to regulations promulgated by the Attorney General, an individual who is employed full or part-time by a State or a unit of local government primarily in preserving order and enforcing the laws, or in firefighting activities, or who voluntarily and without compensation performs such law-enforcement or firefighting duties for such a State or local unit of government.

(3) The term "State" means any State of the United States, the Common-

wealth of Puerto Rico, and any territory or possession of the United States.

(4) The term "unit of local government" means any city, county, township, town, borough, parish, village, or other general purpose subdivision of a State, or any Indian tribe which the Secretary of the Interior determines performs law enforcement or firefighting functions.

ELIGIBLE INSURANCE COMPANIES

SEC. 3. (a) The Attorney General is authorized, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), to purchase from one or more life insurance companies a policy or policies of group life insurance to provide the benefits provided under this Act. Each such life insurance company must (1) be licensed to issue life insurance in each of the fifty States of the United States and in the District of Columbia, and (2) as of the most recent December 31 for which information is available to the Attorney General, have in effect at least 1 per centum of the total amount of group life insurance which all life insurance companies have in effect in the United States.

(b) Any life insurance company issuing such a policy shall establish an administrative office at a place and under a name designated by the Attorney General.

(c) The Attorney General shall arrange with each life insurance company issuing any policy under this Act to reinsure, under conditions approved by him, portions of the total amount of insurance under such policy with such other life insurance companies (which meet qualifying criteria set forth by the Attorney General) as may elect to participate in such reinsurance.

(d) The Attorney General may at any time discontinue any policy which he

had purchased from any insurance company under this Act.

PERSONS INSURED; AMOUNT

Sec. 4. (a) Any policy of insurance purchased by the Attorney General under this Act shall automatically insure any law enforcement or firefighting officer employed on a full-time basis by a State or unit of local government which has (1) applied to the Attorney General for participation in the insurance program provided under this Act, and (2) agreed to deduct from such officer's pay the amount of the premium and forward such amount to the Department of Justice or such other agency or office as is designated by the Attorney General as the collection agency for such premiums. The insurance provided under this Act shall take effect from the first day agreed upon by the Attorney General and the responsible official of the State or unit of local government making application for participation in the program as to law enforcement and firefighting officers then on the payroll, and as to law enforcement and firefighting officers thereafter entering on full-time duty from the first day of such duty. The insurance provided by this Act shall so insure all such law enforcement and firefighting officers unless any such officer elects in writing not to be insured under this Act. If any such officer elects not to be insured under this Act he may thereafter, if eligible, be insured under this Act upon written application, proof of good health, and compliance with such other terms and conditions as may be prescribed by the Attorney General.

(b) A law enforcement or firefighting officer eligible for insurance under this Act is entitled to be insured for an amount of group life insurance, plus an

equal amount of group accidental death and dismemberment insurance, in accordance with the following schedule:

	If annual pay is—		The amount of group insurance is—	
Greater than-	_	But not greater than—	Life	Accidenta death and dis- membermen
		\$8,000	\$10,000	\$10,000
		9,000	11,000	11, 000
		10,000	12, 000	12, 000
		11,000	13, 000	13, 000
		12,000	14, 000	14, 000
		13, 000	15, 000	15, 000
				16, 000
		14,000	16,000	
		15, 000	17, 000	17, 000
315,000		16,000	18, 000	18, 000
16,000		17,000	19,000	19, 00
		18, 000	20, 000	20, 00
		19,000	21,000	21, 00
		20,000	22,000	22, 00
		21,000	23, 000	23, 00
		22,000	24,000	24, 00
		23, 000	25,000	25, 00
		24, 000	26, 000	26, 00
		25, 000	27, 000	27, 00
		26, 000	28, 000	28, 00
				29, 00
		27, 000	29, 000	
		28, 000	30, 000	30, 00
328,000		29,000	31,000	31, 00
			32,000	32, 00

The amount of such insurance shall automatically increase at any time the amount of increase in the annual basic rate of pay places any such officer in a new pay bracket of the schedule.

(c) Subject to the conditions and limitations approved by the Attorney General and which shall be included in the policy purchased by him, the group accidental death and dismemberment insurance shall provide for the following payments:

Loss
For loss of life_____

Loss of one hand or of one foot or loss of sight of one eye.

Loss of two or more members or loss of sight in both eyes.

Amount payable
Full amount shown in the schedule in subsec-

tion (b) of this section.
One-half of the amount shown in the schedule

in subsection (b) of this section.

Full amount shown in the schedule in subsection (b) of this section.

The aggregate amount of group accidental death and dismemberment insurance that may be paid in the case of any insured as the result of any one accident may not exceed the amount shown in the schedule in subsection (b) of this section.

(d) The Attorney General shall prescribe regulations providing for the conversion of other than annual rates of pay to annual rates of pay and shall specify the types of pay included in annual pay.

TERMINATION OF COVERAGE

Sec. 5. Each policy purchased by the Attorney General under this Act shall contain a provision, in terms approved by the Attorney General, to the effect that any insurance thereunder on any law enforcement of firefighting officer shall cease thirty-one days after (1) his separation or release from full-time duty as such an officer or (2) discontinuance of his pay as such an officer, whichever is earlier.

CONVERSION

Sec. 6. Each policy purchased by the Attorney General under this Act shall contain a provision for the conversion of such insurance effective the day following the date such insurance would cease as provided in section 5, of this Act. During the period such insurance is in force the insured, upon request to the office established under section 3(b) of this Act, shall be furnished a list of

life insurance companies participating in the program established under this Act and upon written application (within such period) to the participating company selected by the insured and payment of the required premiums be granted insurance without a medical examination on a permanent plan then currently written by such company which does not provide for the payment of any sum less than the face value thereof or for the payment of an additional amount of premiums if the insured engages in law enforcement or firefighting activities. In addition to the life insurance companies participating in the program established under this Act. such list shall include additional life insurance companies (not so participating) which meet qualifying criteria, terms, and conditions established by the Attorney General and agree to sell insurance to any eligible insured in accordance with the provisions of this section.

WITHHOLDING OF PREMIUMS FROM PAY

Sec. 7. During any period in which a law enforcement or firefighting officer is insured under a policy of insurance purchased by the Attorney General under this Act, his employer shall withhold each month from his basic or other pay until separation or release from full-time duty as a law enforcement or firefighting officer an amount determined by the Attorney General to be such officer's share of the cost of his group life insurance and accidental death and dismemberment insurance. Any such amount not withheld from the basic or other pay of such officer insured under this Act while on full-time duty as a law enforcement or firefighting officer, if not otheriwse paid, shall be deducted from the proceeds of any insurance thereafter payable. The initial monthly amount determined by the Attorney General to be charged any law enforcement or firefighting officer for each unit of insurance under this Act may be continued from year to year, except that the Attorney General may redetermine such monthly amount from time to time in accordance with experience.

SHARING OF COST OF INSURANCE

Sec. 8. For each month any law enforcement or firefighting officer is insured under this title the United States shall bear not to exceed one-third of the cost of such insurance or such lesser amount as may from time to time be determined by the President to be a practicable and equitable obligation of the United States in assisting the States and units of local government in recruiting and retaining personnel for their law enforcement and firefighting forces.

INVESTMENT; EXPENSES

SEC. 9. (a) The sums withheld from the basic or other pay of law enforcement or firefighting officers as premiums for insurance under section 7 of this Act and any portion of the cost of such insurance borne by the United States under section 8 of this Act, together with the income derived from any dividends or premium rate readjustment from insurers shall be deposited to the credit of a revolving fund established in the Treasury of the United States. All premium payments on any insurance policy or policies purchased under this Act and the administrative cost of the insurance program established by this Act to the department or agency vested with the responsibility for its supervision shall be

paid from the revolving fund.

(b) The Attorney General is authorized to set aside out of the revolving fund such amounts as may be required to meet the administrative cost of the program to the department or agency designated by him, and all current premium payments on any policy purchased under this Act. The Secretary of the Treasury is authorized to invest in and to sell and retire special interest-bearing obligations of the United States for the account of the revolving fund. Such obligations issued for this purpose shall have maturities fixed with due regard for the needs of the fund and shall bear interest at a rate equal to the average market yield (computed by the Secretary of the Treasury on the basis of market quotations as of the end of the calendar month next preceding the date of issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average maket yield is not a multiple of one-eighth of 1 per centum, the rate of interest of such obligation shall be the multiple of one-eighth of 1 per centum nearest market yield.

BENEFICIARIES ; PAYMENT OF INSURANCE

Sec. 10. (a) Any amount of insurance in force under this Act on any law enforcement or firefighting officer or former law enforcement or firefighting officer on the date of his death shall be paid, upon establishment of a valid claim therefor, to the person or persons surviving at the date of his death, in the following order of precedence:

First, to the beneficiary or beneficiaries as the law enforcement or firefighting officer or former law enforcement or firefighting officer may have designated by a writing received in his employer's office prior to his death; Second, if there be no such beneficiary, to the widow or widower of such

officer or former officer:

Third, if none of the above, to the child or children of such officer or former officer and descendants of deceased children by representation;

Fourth, if none of the above, to the parents of such officer or former officer

or the survivor of them;

Fifth, if none of the above, to the duly appointed executor or adminis-

trator of the estate of such officer or former officer;

Sixth, if none of the above, to other next of kin of such officer or former officer entitled under the laws of domicile of such officer or former officer at the time of his death.

(b) If any person otherwise entitled to payment under this section does not make claim therefor with one year after the death of the law enforcement or firefighting officer or former law enforcement or firefighting officer, or if payment to such person within that period is prohibited by Federal statute or regulations, payment may be made in the order of precedence as if such person had predeceased such officer or former officer, and any such payment shall

be a bar to recovery by any other person.

(c) If, within two years after the death of a law enforcement or firefighting officer or former law enforcement or firefighting officer, no claim for payment has been filed by any person entitled under the order of precedence set forth in this section, and neither the Attorney General nor the administrative office established by any insurance company pursuant to this Act has received any notice that any such claim will be made, payment may be made to a claimant as may in the judgment of the Attorney General be equitably entitled thereto, and such payment shall be a bar to recovery by any other person. If, within four years after the death of the law enforcement or firefighting officer or former law enforcement or firefighting officer, payment has not been made pursuant to this Act and no claim for payment by any person entitled under this Act is pending, the amount payable shall escheat to the credit of the revolving fund referred to in section 8 of this Act.

(d) The law enforcement or firefighting officer may elect settlement of insurance under this Act either in a lump sum or in thirty-six monthly installments. If no such election is made by such officer the beneficiary may elect settlement either in a lump sum or in thirty-six equal monthly installments. If any such officer has elected settlement in a lump sum, the beneficiary may elect settlement

in thirty-six equal monthly installments.

BASIC TABLES OF PREMIUMS, READJUSTMENT OF RATES

Sec. 11. (a) Each policy or policies purchased under this Act shall include for the first policy year a schedule of basic premium rates by age which the Attorney General shall have determined on a basis consistent with the lowest schedule of basic premium rates generally charged for new group life insurance policies issued to large employers, this schedule of basic premium rates by age to be applied, except as otherwise provided in this section, to the distribution by age of the amount of group life insurance and group accidental death and dismemberment insurance under the policy at its date of issue to determine an average basic premium per \$1,000 of insurance. Each policy so purchased shall also include provisions whereby the basic rates of premium determined for the first policy year shall be continued for subsequent policy years, except that they may be readjusted for any subsequent year, based on the experience under the policy. such readjustment to be made by the insurance company issuing the policy on a basis determined by the Attorney General in advance of such year to be consistent with the general practice of life insurance companies under policies of group life insurance issued to large employers.

(b) Each policy so purchased shall include a provision that, in the event the

Attorney General determines that ascertaining the actual age distribution of the amounts of group life insurance in force at the date of issue of the policy or the end of the first or any subsequent year of insurance thereunder would not be possible except at a disproportionately high expense, the Attorney General may approve the determination of a tentative average group life premium, for the first or any subsequent policy year, in lieu of using the actual age distribution. Such tentative average premium rate shall be determined by the Attorney General during any policy year upon request by the insurance company issuing the policy, if experience indicates that the assumptions made in determining the tentative average premium rate for that policy year were incorrect.

(c) Each policy so purchased shall contain a provision stipulating the maximum expense and risk charges for the first policy year, which charges shall have been determined by the Attorney General on a basis consistent with the general level of such charges made by life insurance companies under policies of group life insurance issued to large employers. Such maximum charges shall be continued from year to year, except that the Attorney General may redetermine such maximum charges for any year either by agreement with the insurance company or companies issuing the policy or upon written notice given by the Attorney General to such companies at least one year in advance of the beginning of the

year for which such redetermined maximum charges will be effective.

(d) Each such policy shall provide for an accounting to the Attorney General not later than ninety days after the end of each policy year, which shall set forth, in a form approved by the Attorney General, (1) the amounts of premiums actually accrued under the policy from its date of issue to the end of such policy year, (2) the total of all mortality, dismemberment, and other claim charges incurred for that period, and (3) the amounts of the insurers' expense and risk charge for that period. Any excess of the total of items (1) over the sum of items (2) and (3) shall be held by the insurance company issuing the policy as a special contingency reserve to be used by such insurance company for charges under such policy only, such reserve to bear interest at a rate to be determined in advance of each policy year by the insurance company issuing the policy, which rate shall be approved by the Attorney General as being consistent with the rates generally used by such company or companies for similar funds held under other group life insurance policies. If and when the Attorney General determines that such special contingency reserve has attained an amount estimated by the Attorney General to make satisfactory provision for adverse fluctuations in future charges under the policy, and further excess shall be deposited to the credit of the revolving fund, subject to the right of the insurance company issuing the policy to make such deposit in equal monthly installments over a period of not more than two years.

BENEFITS CERTIFICATES

Sec. 12. The Attorney General shall arrange to have each member insured under a policy purchased under this Act receive a certificate setting forth the benefits to which the member is entitled thereunder; to whom such benefit shall be payable, to whom claims should be permitted, and summarizing the provisions of the policy principally affecting the member. Such certificate shall be in lieu of the certificate which the insurance company would otherwise be required to issue.

FEDERAL ASSISTANCE TO STATES AND LOCALITIES FOR EXISTING GROUP LIFE INSURANCE PROGRAMS

Sec. 13. (a) Any State or unit of local government having an existing program of group life insurance for law enforcement or firefighting officers which desires to receive Federal assistance under the provisions of this section shall—

(1) inform the law enforcement and firefighting officers of the benefits and premium costs of both the Federal program and the State or unit of local government program, and of the intention of the State or unit of local government to apply for the Federal assistance under this section; and

(2) hold a referendum of law enforcement and firefighting officers of the State or unit of local government to determine whether such officers want to continue in the existing group life insurance program or apply for the

Federal program under the provisions of this Act.

The results of the referendum shall be binding on the State or unit of local government.

(b) If there is an affirmative vote of a majority of such officers to continue in such State or local program and the other requirements set forth in subsection (a) are met, a State or unit of local government may apply for Federal assistance for such program for group life insurance under such rules and regulations as the Attorney General may establish. Assistance under this section shall not exceed three-fourths of the Federal contribution which would otherwise have been available under section 8 of this Act, and shall be reduced to the extent that the Attorney General determines that the existing program of any State or unit of local government does not give as complete coverage as the Federal program. Assistance under this section shall be used to reduce proportionately the premiums paid by the State or the unit of local government and by the appropriate law enforcement and firefighting officers under such existing program.

ADMINISTRATION

Sec. 14. (a) The Attorney General may delegate any of his functions under this Act, except the making of regulations, to any officer or employee of the Department of Justice.

(b) In administering the provisions of this Act, the Attorney General is authorized to utilize the services and facilities of any agency of the Federal Government or a State government in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may

be agreed upon.

(c) There are authoried to be appropriated such sums as may be necessary to carry out the provisions of this Act. Until specific appropriations are made for carrying out the purposes of this Act. any appropriation made to the Department of Justice or the Law Enforcement Assistance Administration for grants, activities, or contracts shall, in the discretion of the Attorney General, be available for payments of obligations arising under this Act.

ADVISORY COUNCIL ON LAW ENFORCEMENT AND FIREFIGHTING OFFICERS' GROUP LIFE INSURANCE

Sec. 15. There is hereby established an Advisory Council on Law Enforcement and Firefighting Officers' Group Life Insurance consisting of the Attorney General as Chairman, the Secretary of the Treasury, the Secretary of Health, Education, and Welfare, and the Director of the Office of Management and Budget, each of whom shall serve without additional compensation. The Council shall meet once a year, or oftener, at the call of the Attorney General, and shall review the administration of this Act and advise the Attorney General on matters of policy relating to his activities thereunder. In addition, the Attorney General may solicit advice and recommendations from any State or unit of local government participating in the law enforcement and firefighting officers' group life insurance program.

JURISDICTION OF COURTS

Sec. 16. The district courts of the United States shall have original jurisdiction of any civil action or claim against the United States founded upon the Act.

PREMIUM PAYMENTS ON BEHALF OF LAW ENFORCEMENT AND FIRIFIGHTING OFFICERS

Sec. 17. Nothing in this Act shall be construed to preclude any State or unit of local government for making payments on behalf of law enforcement and firefighting officers of the premiums required to be paid by them for any group life insurance program authorized by this Act or any such program carried out by a State or unit of local government.

EFFECTIVE DATE

Sec. 18. The insurance provided for under this Act shall be placed in effect for the law enforcement and firefighting officers of any State or unit of local government participating in the law enforcement and firefighting officers' group life insurance program on a date mutually agreeable to the Attorney General, the insurer or insurers, and the participating State or unit of local government.

[S. 2087, 92d Cong., first sess.] [Senator McClellan (by request), June 17, 1971]

A BILL To amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of police officers killed in the line of duty

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Police Officers Benefits Act of 1971".

SEC. 2. Title I of the Omnibus Crime Control and Safe Streets Act of 1968

is amended by adding at the end thereof the following new part:

"PART J-POLICE OFFICERS DEATH BENEFITS

"Sec. 701. (a) Under regulations issued by the administration under part F of this title, upon certification to the administration by the Governor of any State that a police officer employed on a full-time basis by that State or a unit of general local government within the State to enforce the criminal laws has been killed in the line of duty, leaving a spouse or one or more eligible dependents, the administration shall pay a gratuity of \$50,000, in the following order of precedence:

"(1) If there is no dependent child, to the spouse.

"(2) If there is no spouse, to the dependent child or children, in equal shares.

"(3) If there are both a spouse and one or more dependent children, one-half to the spouse and one-half to the child or children, in equal shares.

"(4) If there is no survivor in the above classes, to the parent or parents

dependent for support on the decedent, in equal shares.

"(b) As used in this section, a dependent child is one who is unmarried and who was either living with or was receiving regular support contributions from the police officer at the time of his death, including a stepchild, an adopted child, or a posthumous child, and who is—

"(1) under eighteen years of age; or

"(2) over eighteen years of age and incapable of self-support because of physical or mental disability; or

 $\ddot{a}(3)$ over eighteen years of age and a student as defined by section 8101

of title 5, United States Code.

"(c) As used in this section, spouse includes one living with or dependent for support on the decedent at the time of his death, or living apart for reasonable cause or because of desertion by the decedent.

"Sec. 702. The gratuity payable to any person under this part is in addition

to any benefits to which he may be entitled under any other law."

SEC. 3. Section 520 of the Omnibus Crime Control Act of 1968, as amended, is amended by adding at the end of the section the following sentence: "In addition there are authorized to be appropriated in each fiscal year such sums

as may be necessary to carry out the purposes of part J."

SEC. 4. Section 601 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by changing the period at the end of subsection (c) of that section to a comma and adding: "except that for the purposes of part J the term does not include the District of Columbia".

OFFICE OF THE ATTORNEY GENERAL, Washington, D.C., June 1, 1971.

The VICE PRESIDENT, U.S. Senate, Washington, D.C.

DEAR MR. VICE PRESIDENT: Enclosed for your consideration and appropriate reference is a legislative proposal "To amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of police officers killed in the line of duty."

The slaying of police officers in New York City and in Washington, D.C. in recent weeks has shown to America the risk of lethal violence faced daily by peace officers in city after city across the country. The nature of the dangers

police officers confront and the disparity in survivors benefits from State to State have led us to conclude that the Federal Government should provide a gratuity to the families of each municipal or State Police officer killed while in the performance of duty, to serve as a federal floor for survivors benefits, and to be in addition to any other benefits due the family. The 91st Congress authorized a payment of \$50.000 to survivors of police and other public safety officer slain in the line of duty here in the District of Columbia.

On behalf of the President of the United States, I am transmitting the enclosed legislative proposal to give to the spouse and dependents of a police-officer killed in the line of duty a gratuity of \$50,000, payable from funds appropriated to the Law Enforcement Assistance Administration for that purpose.

I urge early consideration and prompt enactment of this proposed legislation. The Office of Management and Budget has advised that enactment of this legislation is in accord with the Program of the President.

Sincerely,

John Mitchell, Attorney General.

SECTIONAL ANALYSIS

Section 1 is the short title.

Section 2 would add a new Part J to Title I (Law Enforcement Assistance) of the Omnibus Crime Control and Safe Streets Act of 1968. The new part would consist of two new sections, 701 and 702.

Proposed section 701 would authorize the Law Enforcement Assistance Administration to pay a lump sum gratuity of \$50,000 to the spouse, dependent children or parents of police officers who are killed in the line of duty. It is intended that the latter term be construed to provide payment to the survivors of a police officer who dies as the proximate result of injuries sustained in or on account of the performance of his official duties. Payments would be made under regulations promulgated by the Administration upon certification of the applicable facts to LEAA by the Governor of the State concerned. Where the police officer leaves both a surviving spouse and one or more dependent children, the spouse would receive \$25,000 and the children \$25,000, divided equally. Otherwise, the spouse or children would receive the entire \$50,000. If there are neither children nor a spouse surviving the officer, the money would go to the dependent parents of the officer. The term "dependent for support" in the section is intended to mean more than one-half of the support of the dependent concerned.

Proposed section 702 would make clear that the new benefits are in addition to

any other benefits.

Section 3 of the bill would amend section 520 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to authorize appropriation of such

sums as are necessary to carry out the program.

Section 4 of the bill would amend the definition of "State" in the Omnibus Crime Control and Safe Streets Act of 1968 so as to exclude the District of Columbia from the coverage of the bill. Survivors of police and other public safety officers of the District of Columbia killed in the line of duty are entitled to a \$50,000 death benefit by virtue of Public Law 91–509, approved October 26, 1970.

[S. 2087, 92d Cong., first sess.] [Oct. 13, 1971]

AMENDMENT Intended to be proposed by Mr. Thurmond to S. 2087, a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of police officers killed in the line of duty, viz: On page 3, after line 18, insert the following new section:

Sec. 5. Section 101(b)(2)(A) of the Internal Revenue Code of 1954 (relating to death benefits excluded from gross income) is amended to read as follows:

"(A) \$5,000 LIMITATION.—The aggregate amounts excludable under paragraph (1) with respect to the death of any employee shall not exceed \$5,000, except that not to exceed \$50,000 shall be excludable under such paragraph if such sum is paid under the provisions of part J of the Omnibus Crime Control and Safe Streets Act of 1968."

Amdt. No. 467

[S. 2087, 92d Cong., first sess.] [Oct. 13, 1971]

- AMENDMENT Intended to be proposed by Mr. Thurmond to S. 2087, a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of police officers killed in the line of duty, viz: On page 3, between lines 5 and 6, insert the following new subsection:
- "(d) As used in this section, 'police officer' means all law enforcement personnel including sheriffs, deputy sheriffs, highway patrolmen, and investigatory and correctional personnel."

Amdt. No. 468

[S. 2426, 92d Cong., first sess.] [Senator Bible, Aug. 4, 1971]

A BILL To add a new section to title 18 of the United States Code relating to crimes involving property in interstate or foreign commerce to provide a civil action for damages resulting from violations of section 659

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a new section be added following section 659 of title 18 of the United States Code and sections 660 through 664 be redesignated as sections 661 through 665, respectively.

Sec. 2. (a) Chapter 31 of title 18 of the United States Code is amended by

inserting after section 659 a new section as follows:

"(a) Any person injured in his business or property by reason of a violation of section 659 of this chapter may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee.

"(b) Any civil action or proceeding under this section against any person may be instituted in the district court of the United States for any district in which

such person resides, is found, has an agent, or transacts his affairs.

"(c) In any action under this section in any district court of the United States in which it is shown that the needs of justice require that any other party residing in any other district be brought before the court, the court may cause such party to be summoned, and process for that purpose may be served in any judicial district of the United States by the marshal thereof.

"(d) All other process in any action or proceeding under this section may be served on any person in any judicial district in which such person resides, is

found, has an agent, or transacts his affairs."

(b) The analysis at the beginning of chapter 31 of title 18 of the United States Code is amended by inserting after section 659 the following new item:

"660. Civil remedy for injuries resulting from violation of section 659."

(c) Sections 660 through 664 are redesignated as sections 661 through 665, respectively.

(d) The amendment made by this section shall be effective after thirty days following the date of enactment of this Act.

[S. 2748, 92d Cong., first sess.] [Senator Boggs, Nov. 3, 1971]

A BILL To amend the Omnibus Crime Control and Safe Streets Act of 1968, to provide benefits to survivors of police officers, prison guards, and firemen killed in the line of duty

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "Law Enforcement Officers Benefits Act of 1971".

Sec. 2. Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end thereof the following new part:

"Part J.—LAW ENFORCEMENT OFFICERS DEATH BENEFITS

"Sec. 701. (a) Under regulations issued by the Administration under part F of this title, upon certification to the Administration by the Governor of any State that a police officer or prison guard employed on a full-time basis by that

State or a unit of general local government within the State, or a fireman serving in that State or unit of general local government within the State has been killed in the line of duty, leaving a spouse or one or more eligible dependents, the Administration shall pay a gratuity of \$50,000, in the following order of precedence:

"(1) If there is no dependent child, to the spouse.

"(2) If there is no spouse, to the dependent child or children, in equal chares.

"(3) If there are both a spouse and one or more dependent children, one-half to the spouse and one-half to the child or children, in equal shares.

"(4) If there is no survivor in the above classes, to the parent or parents

dependent for support on the decedent, in equal shares.

"(b) As used in this section, a dependent child is one who is unmarried and who was either living with or was receiving regular support contributions from the police officer, prison guard, or fireman, as the case may be, at the time of his death, including a stepchild, an adopted child or a posthumous child, and who is—

"(1) under eighteen years of age; or

"(2) over eighteen years of age and incapable of self-support because of physical or mental disability; or

"(3) over eighteen years of age and a student as defined by section 8101

of title 5, United States Code.

"(c) As used in this section, spouse includes one living with or dependent for the support on the decedant at the time of his death, or living apart for reasonable cause or because of desertion by the decedent.

"Sec. 702. The gratuity payable to any person under this part is in addition to

any benefits to which he may be entitled under any other law."

Sec. 3. Section 520 of the Omnibus Crime Control Act of 1968, as amended, is amended by adding at the end of the section the following sentence: "In addition there are authorized to be appropriated in each fiscal year such sums as may be necessary to carry out the purpose of part I."

necessary to carry out the purpose of part J."

SEC. 4. Section 601 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by changing the period at the end of subsection (c) of that section to a comma and adding: "except that for the purposes of part J the term does not include the District of Columbia".

[S. 2856, 92d Cong., first sess.] [Senator Hartke, Nov. 12, 1971]

A BILL To provide for the compensation of persons injured by criminal acts

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I-SHORT TITLE AND DEFINITIONS

Sec. 101. This Act may be cited as the "Criminal Loss Recovery Act of 1972".

DEFINITIONS

Sec. 102. As used in this Act the term-

(1) "child" means an unmarried person who is under eighteen years of age and includes a stepchild or an adopted child, and a child conceived prior to but born after the death of the victim;

(2) "Commission" means the Criminal Loss Recovery Commission estab-

lished by this Act;

(3) "dependent" means those who were wholly or partially dependent upon the income of the victim at the time of the death of the victim or those for whom the victim was legally responsible;

(4) "personal injury" means actual bodily harm and includes pregnancy,

mental distress, nervous shock, and loss of reputation;

- (5) "relative" means the spouse, parent, grandparent, stepfather, stepmother, child, grandchild, siblings of the whole or half blood, spouse's parents;
 - (6) "victim" includes any person (A) killed or injured as a result of a

crime of violence perpetrated or attempted against him, (B) killed or injured while attempting to assist a person against whom a crime of violence is being perpetrated or attempted, or (C) killed or injured while assisting a law enforcement official to apprehend a person who has perpetrated a crime of violence or to prevent the perpetration of any such crime if that assistance was in response to the express request of the law enforcement official;

(7) "guardian" means one who is entitled by common law or legal appointment to care for and manage the person or property or both of a child

or incompetent; and

(8) "incompetent" means a person who is incapable of managing his own affairs, whether adjudiciated or not.

TITLE II—ESTABLISHMENT OF CRIMINAL LOSS COMPENSATION COMMISSION

Sec. 201. (a) There is hereby established an independent agency within the executive branch of the Federal Government to be known as the Criminal Loss Recovery Commission. The Commission shall be composed of three members to be appointed by the President, by and with the advice and consent of the Senate. At least one member of the Commission must have served as a judge before a State court of general jurisdiction or on the bench of a Federal district court; and at least one member of the Commission must be licensed to practice medicine in the District of Columbia or a State of the United States. One member shall be designated Chairman.

(b) There shall be appointed by the President, by and with the advice and consent of the Senate, an Executive Secretary and a General Counsel to perform such duties as the Commission shall prescribe in accordance with the objectives of

this Act.

(c) No member of the Commission shall engage in any other business, vocation,

or employment.

(d) Except as provided in section 206(1) of this Act, the Chairman and one other member of the Commission shall constitute a quorum. Where opinion is divided and only one other member is present, the opinion of the Chairman shall prevail.

(e) The Commission shall have an official seal.

FUNCTIONS OF THE COMMISSION

Sec. 202. In order to carry out the purposes of this Act, the Commission shall—
(1) receive and process applications under the provisions of this Act for compensation for personal injury;

(2) pay compensation to victims and other beneficiaries in accordance

with the provisions of this Act;

(3) hold such hearings, sit and act at such times and places, and take such testimony as the Commission or any member thereof may deem advisable;

(4) make grants in accordance with the provisions of title V of this Act.

ADMINISTRATIVE PROVISIONS

Sec. 203. (a) The Commission is authorized in carrying out its functions under this Act to—

(1) appoint and fix the compensation of such personnel as the Commission deems necessary in accordance with the provisions of title 5, United States Code;

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed \$100 a day for individuals;

(3) promulgate such rules and regulations as may be required to carry

out the provisions of this Act:

(4) appoint such advisory committees as the Director may determine to

be desirable to carry out the provisions of this Act;

(5) designate representatives to serve or assist on such advisory committees as the Director may determine to be necessary to maintain effective liaison with Federal agencies and with State and local agencies developing or carrying out policies or programs related to the purposes of this Act;

(6) use the services, personnel, facilities, and information (including suggestions, estimates, and statistics) of Federal agencies and those of State and local public agencies and private institutions, with or without

reimbursement therefor;

(7) without regard to section 529 of title 31, United States Code, to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of his functions, with any public agency, or with any person, firm, association, corporation, or educational institution, and make grants to any public agency or private non-profit organization;

(8) request such information, data, and reports from any Federal agency as the Director may from time to time require and as may be produced

consistent with other law; and

(9) arrange with the heads of other Federal agencies for the performance of any of his functions under this title with or without reimbursement and, with approval of the President delegate and authorize the redelegation

of any of his powers under this Act.

- (b) Upon request made by the Administrator each Federal agency is authorized and directed to make its services, equipment, personnel, facilities, and information (including suggestions, estimates, and statistics) available to the greatest practicable extent to the Administration in the performance of its functions.
- (c) Each member of a committee appointed pursuant to paragraph (4) of subsection (a) of this section shall receive \$—— a day, including traveltime, for each day he is engaged in the actual performance of his duties as a member of a committee. Each such member shall also be reimbured for travel, subsistence, and other necessary expenses incurred in the performance of his duties.

TERMS AND COMPENSATION OF COMMISSION MEMBERS

Sec. 204. (a) Section 5314, title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(55) Chairman, Criminal Loss Recovery Commission".

(b) Section 5315, title 5. United States Code, is amended by adding at the end thereof the following new paragraph:

"(95) Members, Criminal Loss Recovery Commission".

(c) Section 5316, title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(130) Executive Secretary, Criminal Loss Recovery Commission. "(131) General Counsel, Criminal Loss Recovery Commission".

(d) The term of office of each member of the Commission taking office after December 31, 1971, shall be eight years, except that (1) the terms of office of the members first taking office after December 31, 1971, shall expire as designated by the President at the time of the appointment, one at the end of four years, one at the end of six years, one at the end of eight years, after December 31, 1971; and (2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

(e) Each member of the Commission shall be eligible for reappointment.

(f) A vacancy in the Commission shall not affect its powers.

(g) Any member of the Commission may be removed by the President for

inefficiency, neglect of duty, or malfeasance in office.

(h) All expenses of the Commission, including all necessary traveling and subsistence expenses of the Commission outside the District of Columbia incurred by the members or employees of the Commission under its orders, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the Executive Secretary, or his designee.

PRINCIPAL OFFICE

Sec. 205. (a) The principal office of the Commission shall be in or near the District of Columbia, but the Commission or any duly authorized representative may exercise any or all of its powers in any place.

(b) The Commission shall maintain an office for the service of process and

papers within the District of Columbia.

PROCEDURES OF THE COMMISSION

Sec. 206. The Commission may-

(1) subpena and require production of documents in the manner of the Securities and Exchange Commission as required by subsection (c) of section 18 of the Act of August 26, 1935, and the provisions of subsection (d) of such section shall be applicable to all persons summoned by subpena or otherwise to attend or testify or produce such documents as are described therein before the Commission, except that no subpena shall be issued except under the signature of the Chairman, and application to any court for aid in enforcing such subpena may be made only by the Chairman. Subpenas shall be served by any person designated by the Chairman;

(2) administer oaths, or affirmations to witnesses appearing before the Commission, receive in evidence any statement, document, information, or matter that may in the opinion of the Commission contribute to its functions under this Act, whether or not such statement, document, information, or matter would be admissible in a court of law, except that any evidence introduced by or on behalf of the person or persons charged with causing the injury or death of the victim, any request for a stay of the Commission's action, and the fact of any award granted by the Commission shall not be admissible against such person or persons in any prosecution for such injury

or death.

TITLE III—RECOVERY FOR CRIMINAL LOSS

Sec. 301. (a) In any case in which a person is injured or killed by any act or omission of any other person which is a violation of a penal offense under the laws of the United States or any State thereof, except that no award will be made for damage to property or for the violation of any motor vehicle law. The Commission may, in its discretion, upon an application, order the payment of, and pay compensation if such act or omission occurs—

(1) within the "special maritime and territorial jurisdiction of the United States" as defined in section 7 of title 18 of the United States Code;

(2) within the District of Columbia; or

(3) in any State of the United States.(b) The Commission may order the payment of compensation—

(1) to or on behalf of the injured person; or

(2) in the case of the personal injury of the victim, where the compensation is for pecuniary loss suffered or expenses incurred by any person responsible for the maintenance of the victim, to that person;

(3) in the case of the death of the victim, to or for the benefit of the dependents or closest relative of the deceased victim, or any one or more

of such dependents;

(4) in the case of a payment for the benefit of a child or incompetent the payee shall file an accounting with the Commission no later than January 31 of each year for the previous calendar year;

(5) in the case of the death of the victim, to any one or more persons

who suffered pecuniary loss with relation to funeral expenses.

(c) For the purposes of this Act, a person shall be deemed to have intended an act or omission notwithstanding that by reason of age, insanity, drunkenness, or otherwise he was legally incapable of forming a criminal intent.

- (d) In determining whether to make an order under this section, or the amount of any award, the Commission may consider any circumstances it determines to be relevant, including the behavior of the victim which directly or indirectly contributed to his injury or death, unless such injury or death resulted from the victim's lawful attempt to prevent the commission of a crime or to apprehend an offender.
- (e) No order may be made under this section unless the Commission. supported by substantial evidence, finds that—

(1) such an act or omission did occur; and

(2) the injury or death resulted from such act or omission.

(f) An order may be made under this section whether or not any person is prosecuted or convicted of any offense arising out of such act or omission, or if such act or omission is the subject of any other legal action. The Commission may suspend proceedings in the interest of justice if a civil action arising from such act or omission is pending or imminent.

WHO MAY RECOVER LOSS

Sec. 302. A person is entitled to compensation under this Act if he is a victim as defined in section 102(6) of this Act; or is a person who was dependent on a deceased victim of a crime of violence for his support at the time of the death of that victim.

APPLICATION FOR COMPENSATION

Sec. 303. (a) In any case in which the person entitled to make an application is a child, or incompetent, the application may be made on his behalf by any person acting as his parent or attorney.

(b) Where any application is made to the Commission under this Act, the applicant, or his attorney, and any attorney of the Commission, shall be entitled

to appear and be heard.

(c) Any other person may appear and be heard who satisfies the Commission that he has a substantial interest in the proceedings.

(d) Every person appearing under the preceding subsections of this section

shall have the right to produce evidence and to cross-examine witnesses.

(e) If any person has been convicted of any offense with respect to an act or omission on which a claim under this Act is based, proof of that conviction shall, unless an appeal against the conviction or a petition for a rehearing or certiorari in respect of the charge is pending or a new trial or rehearing has been ordered, be taken as conclusive evidence that the offense has been committed.

ATTORNEY'S FEES

Sec. 304. (a) The Commission shall publish regulations providing that an attorney shall, at the conclusion of proceedings under this Act, file with the agency a statement of the amount of fee charged in connection with his services rendered

in such proceedings.

- (b) After the fee information is filed by an attorney under subsection (a) of this section, the Commission may determine, in accordance with such published rules or regulations as it may provide, that such fee charged is excessive. If, after notice to the attorney of this determination, the Commission and the attorney fail to agree upon a fee, the Commission may, within ninety days after the receipt of the information required by subsection (a) of this section petition the United States district court in the district in which the attorney maintains an office, and the court shall determine a reasonable fee for the services rendered by the attorney.
- (c) Any attorney who willfully charges, demands, receives, or collects for services rendered in connection with any proceedings under this Act any amount in excess of that allowed under this section, if any compensation is paid, shall be fined not more than \$2,000 or imprisoned not more than one year, or both.

NATURE OF THE COMPENSATION

Sec. 305. The Commmission may order the payment of compensation under this Act for—

(1) expenses actually and reasonably incurred as a result of the personal injury or death of the victim;

(2) loss of earning power as a result of total or partial incapacity of such victim:

(3) pecuniary loss to the dependents of the deceased victim;

(4) any other pecuniary loss resulting from the personal injury or death

of the victim which the Commission determines to be reasonable; and

(5) pecuniary loss to an applicant under this Act resulting from injury or death to a victim includes, in the case of injury, medical expenses (including psychiatric care), hospital expenses, loss of earnings, loss of future earnings because of a disability resulting from the injury, and other expenses actually and necessarily incurred as a result of the injury and, in addition in the case of death, funeral and burial expenses and loss of support to the dependents of the victim. Pecuniary loss does not include property damage.

FINALITY OF DECISION

Sec. 306. The orders and decisions of the Commission shall be reviewable in the appropriate court of appeals, except that no trial de novo of the facts determined by the Commission shall be allowed.

LIMITATIONS UPON AWARDING COMPENSATION

Sec. 307 (a) No order for the payment of compensation shall be made under section 501 of this Act unless the application has been made within two years after the date of the personal injury or death.

(b) There shall be no limitation on the amount that may be awarded to or on

behalf of any victim.

(c) Compensation shall not be awarded if the Commission feels there is unjust enrichment to or on behalf of the offender would result. This is not to imply that a family member or relative or those victims living in wedlock with the offender may not recover.

TERMS AND PAYMENTS OF THE ORDER

Sec. 308. (a) Except as otherwise provided in this section, any order for the payment of compensation under this Act may be made on such terms as the

Commission deems appropriate.

(b) The Commission shall deduct from any payments awarded under section 301 of this Act any payments received by the victim or by any of his dependents from the offender or from any person on behalf of the offender, or from the United States (except those received under this Act), a State or any of its subdivisions, for personal injury or death compensable under this Act, but only to the extent that the sum of such payments and any award under this Act are in excess of the total compensable injuries suffered by the victim as determined by the Commission.

(c) The Commission shall pay to the person named in the order the amount named therein in accordance with the provisions of such order.

EFFECT ON CIVIL ACTIONS

Sec. 309. An order for the payment of compensation under this Act shall not affect the right of any person to recover damages from any other person by a civil action for the injury or death.

TITLE IV—CRIMINAL LOSS RECOVERY COMPENSATION GRANTS

Sec. 401. Under the supervision and direction of the Commission, the Executive Secretary is authorized to make grants to the States to pay the Federal share of the costs of State programs to compensate victims of violent crimes.

ELIGIBILITY FOR ASSISTANCE

Sec. 402. Any State desiring to receive a grant under this title shall submit to the Commission a plan and the Federal Government will underwrite 90 per centum of such plan provided that the States adopt a plan that is in substantial compliance with the scope and intend of this legislation.

TITLE V-MISCELLANEOUS

REPORTS TO THE CONGRESS

Sec. 501. The Commission shall transmit to the President and to the Congress annually a report of its activities under this Act, including the name of each applicant, a brief description of the facts in each case, and the amount, if any, of compensation awarded, and the number and amount of grants to States under title IV.

PENALTIES

Sec. 502. The provisions of section 1001 of title 18 of the United States Code shall apply to any application, statement, document, or information presented to the Commission under this Act.

AUTHORIZATION OF APPROPRIATIONS

Sec. 503. (a) There are authorized to be appropriated for the purpose of making grants under title IV of this Act \$—— for the fiscal year ending June 30, 1973; and \$—— for the fiscal year ending June 30, 1974.

(b) There are hereby authorized to be appropriated such sums as may be necessary to carry out the other provisions of this Act.

EFFECTIVE DATE

Sec. 504. This Act shall take effect on January 1, 1971.

[S. 2994, 92d Cong., first sess.] [Senator McClellan, Dec. 11, 1971]

A BILL To provide for the compensation of innocent victims of violent crime in need; to make grants to States for the payment of such compensation; to authorize an insurance program and death and disability benefits for public safety officers; to provide civil remedies for victims of racketeering activity; and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Victims of Crime Act of 1972".

STATEMENT OF FINDINGS AND PURPOSE

The Congress finds that (1) there is an increase of crimes of violence not only in urban, but also in suburban and rural areas; (2) the increase in crimes of violence is disproportionate to the increase in population; (3) the increase in crimes of violence increases the chances of a person becoming a victim of such a crime; (4) on an increasing basis crimes of violence are being directed at public safety officers, including policemen, firemen, and correctional guards; (5) law enforcement identification, apprehension, and conviction of perpetrators of crimes of violence is decreasing; (6) the perpetrators of crimes of violence, when identified, apprehended, and convicted, are often not financially responsible; and (7) the victims of crimes of violence, their families and dependents, are often themselves unable to bear the consequent pecuniary losses without undue hardship.

selves unable to bear the consequent pecuniary losses without undue hardship. It is, therefore, the purpose of this Act to commit the United States to meet its moral obligation to assist the innocent victims of violent crime, their families and dependens in financial need, by direct aid to those within the area primarily of Federal responsibility, by assistance to the States to aid those within the area primarily of State responsibility, by the establishment of insurance and benefit programs for public safety officers and their families and dependents, and by the strengthening of the civil remedies available to victims of racketeering activity.

TITLE I—COMPENSATION FOR VICTIMS OF VIOLENT CRIME

DECLARATION OF PURPOSE

Sec. 101. It is the declared purpose of Congress in this title to promote the public welfare by establishing a means of meeting the financial needs of the innocent victims of violent crime, their families and dependents, and others acting to prevent the commission of crime or to assist in the apprehension of suspected criminals.

PART A-FEDERAL COMPENSATION PROGRAM

Sec. 102. The Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by—

(1) redesignating sections 451 through 455 respectively as sections 421 through 425;

(2) redesignating sections 501 through 521 respectively as sections 550 through 570;

(3) redesignating parts F, G, H, and I of title I respectively as parts I, J, K, and L of title I; and

(4) adding at the end of part E of title I, as amended by this Act, the following new parts:

"PART F-FEDERAL COMPENSATION FOR VICTIMS OF VIOLENT CRIME

"DEFINITIONS

"Sec. 450. As used in this part—

"(1) 'Board' means the Violent Crimes Compensation Board established by this part;

"(2) 'Chairman' means the Chairman of the Violent Crimes Compensa-

tion Board established by this part;

"(3) 'child' means an unmarried person who is under eighteen years of age and includes a stepchild or an adopted child, and illegitimate child, and student over eighteen years of age, and a child conceived prior to but born after the personal injury or death of the victim;

"(4) 'dependent' means a relative or other person who was wholly or partially dependent upon the income of the victim at the time of the per-

sonal injury or death of the victim;

"(5) 'Executive Secretary' means the Executive Secretary of the Violent Crimes Compensation Board established by this part;

"(6) 'General Counsel' means the General Counsel of the Violent Crimes

Compensation Commission established by this part;

"(7) 'guardian' means a person who is entitled by common law or legal appointment to care for and manage the person or property or both of a child or incompetent;

"(8) 'incompetent' means a person who is incapable of managing his own

affairs, whether adjudicated or not;

"(9) 'personal injury' means actual bodily harm and includes pregnancy, mental distress, and nervous shock;

"(10) 'pecuniary loss' includes: "(A) for personal injury-

"(1) medical expenses (including psychiatric care);

"(2) hospital expenses;

"(3) loss of past earnings; and
"(4) loss of future earnings because of a disability resulting from the personal injury; and

"(B) for death-

"(1) funeral and burial expenses; and

"(2)loss of support to the dependents of the victim.

Pecuniary loss includes any other expenses actually and necessarily incurred as a result of the personal injury or death, but it does not include property damage.

"(11) 'relative' includes a spouse, parent, grandparent, stepfather, stepmother, child, grandchild, siblings of the whole or half blood, a spouse's

parents, a niece or nephew;

"(12) 'student' means a person who is a 'student' as defined in paragraph

(17) of section 8101 of title 5 of the United States Code; and

"(13) 'victim' includes any person who is killed or injured as proximate cause of a criminal act committed or attempted against him enumerated in section 458 of this part or killed or injured while assisting a law enforcement officer to apprehend a person who has committeed a crime or to prevent the commission of a crime.

"COMPENSATION BOARD

"Sec. 451. (a) There is hereby established a Board within the Department of Justice to be known as the Violent Crimes Compensation Board (hereinafter referred to as the 'Board'). The Board shall be composed of three members to be appointed by the President, by and with the advice and consent of the Senate. The President shall designate one of the members of the Board as Chairman, who shall have been a member of the bar of a Federal court or of the highest court of a State for at least eight years.

"(b) There shall be appointed by the President, by and with the advice and consent of the Senate, an Executive Secretary and a General Counsel to perform such duties as the Board shall prescribe in acordance with the objectives

of this part.

"(c) No member of the Board shall engage in any other business, vocation,

or employment.

"(d) Except as provided in paragraph (1) of subsection (a) of section 456 of this part, the Chairman and one other member of the Board shall constitute a quorum. Where opinion is divided and only one other member is present, the opinion of the Chairman shall prevail.

"(e) The Board shall have an official seal.

"FUNCTIONS OF THE BOARD

"Sec. 452. In order to carry out the purposes of this part the Board shall-

"(1) receive and process applications under the provisions of this part for compensation for personal injury or death resulting from criminal acts enumerated in section 458 of this part;

"(2) hold such hearings, sit and act at such times and places, and take such

testimony as the Board or any member thereof may deem advisable;

"(3) order the payment of compensation to victims and other beneficiaries in accordance with the provisions of this part; and

"(4) take such other action as it deems necesary and appropriate to earry out the purposes of this part.

"ADMINISTRATIVE PROVISIONS

"Sec. 453. (a) The Board is authorized in carry out its functions under this part to—

"(1) appoint and fix the compensation of such personnel as the Board deems necessary in accordance with the provisions of title 5 of the United

States Code;

"(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5 of the United States Code, but at rates not to exceed \$100 a day for individuals;

"(3) promulgate such rules and regulations as may be required to carry

out the provisons of this part;

"(4) appoint such advisory committees as the Board may determine to

be desirable to carry out the provisions of this part;

"(5) designate representatives to serve or assist on such advisory committees as the Board may determine to be necessary to maintain effective liaison with Federal agencies and with State and local agencies developing or carrying out policies or programs related to the provisions of this part;

"(6) use the services, personnel, facilities, and information (including suggestions, estimates, and statistics) of Federal agencies and those of State and local public agencies and private institutions, with or without

reimbursement therefor:

"(7) without regard to section 529 of title 31 of the United States Code to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its functions, with any public agency, or with any person, firm, association, corporation, or educational institution, and make grants to any public agency or private nonprofit organization;

"(8) request such information, data, and reports from any Federal agency as the Board may from time to time require and as may be produced consist-

ent with other law; and

"(9) arrange with the heads of other Federal agencies for the performance of any of its functions under this part with or without reimbursement and, with the approval of the President, delegate and authorize the redelegation of any of his powers under this part.

"(b) Upon request made by the Board, each Federal agency is authorized and directed to make its services, equipment, personnel, facilities, and information (including suggestions, estimates, and satisfies) available to the greatest prac-

ticable extent to the Board in the performance of its functions.

"(c) Each member of a committee appointed pursuant to paragraph (4) of subsection (a) of this section shall receive \$100 a day, including traveltime, for each day he is engaged in the actual performance of his duties as a member of a committee. Each such member shall also be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of his duties.

"TERMS OF BOARD MEMBERS

"Sec. 454. (a) The term of office of each member of the Poard taking office after January 1, 1972, shall be eight years, except that (1) the terms of office of the members first taking office after January 1, 1972, shall expire as designated by the President at the time of appointment, one at the end of four years, one at the end of six years, and one at the end of eight years, after January 1,

1972; and (2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

"(b) Each member of the Board shall be eligible for reappointment.

"(c) Any member of the Board may be removed by the President for ineffi-

ciency, neglect of duty, or malfeasance in office.

"(d) All expenses of the Board, including all necessary travel and subsistence expenses of the Board outside the District of Columbia incurred by the members or employees of the Board under its orders, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the Executive Secretary, or his designee.

"PRINCIPLE OFFICE

"Sec. 455. (a) The principal office of the Board shall be in or near the District of Columbia, but the Board or any duly authorized representative may exercise any or all of its powers in any place.

"(b) The Board shall maintain an office for the service of process and papers

within the District of Columbia.

"PROCEDURES OF THE BOARD

"Sec. 456. (a) The Board—

"(1) may subpena and require production of documents in the manner of the Securities and Exchange Commission as provided in subsection (c) of section (18) of the Act of August 26, 1935, except that such subpena shall only be issued under the signature of the Chairman, and application to any court for aid in enforcing such subpena shall be made only by the Chairman, but a subpena may be served by any person designated by the Chairman;

"(2) may administer oaths, or affirmations to witnesses appearing before the Board, receive in evidence any statement, document, information, or matter that may, in the opinion of the Board, contribute to its functions under this part, whether or not such statement, document, information, or matter would

be admissible in a court of law;

"(3) shall conduct hearings open to the public unless in a particular case the Board determines that the hearing, or a portion thereof, should be held in private, having regard to the fact that the criminal has not been convicted or to the interest of the victim of an alleged crime; and

"(4) may appoint an impartial licensed physician to examine any person making application under this part and order the payment of reasonable fees

for such examination.

"(b) The Board shall permit every person appearing under section 460 of this part to have the right to produce evidence and to cross-examine such witnesses as

may appear.

"(c) Where a person has been convicted of a crime giving rise to an application under this part, proof of the conviction shall be conclusive evidence that the crime was committed, unless an appeal of the conviction or a petition for a rehearing or certiorari is pending or a new trial or rehearing has been ordered.

"(d) The Board shall be 'an agency of the United States' under subsection (1) of section 6001 of title 18 of the United States Code for the purpose of granting

immunity to witnesses.

"Sec. 457. (a) In any case in which a person is injured or killed by any criminal act, or omission of any other person, enumerated in section 458 of this part, the Board may, in its discretion, upon an application, order the payment of, and pay, compensation in accordance with the provisions of this part, if such act or omission occurs—

"(1) within the 'special maritime and territorial jurisdiction of the United States' as defined in section 7 of title 18 of the United States Code; or

"(2) within the District of Columbia.

"(b) The Board may order the payment of compensation-

"(1) to or on behalf of the victim; or

"(2) in the case of the personal injury of the victim, where the compensation is for pecuniary loss suffered as a result of that personal injury by any person, to that person; or

"(3) in the case of the death of the victim, to or for the benefit of the dependent of the deceased victim, or any one or more of such dependents, or to any person who has suffered pecuniary loss as a result of that death.

"(c) In determining whether to order a payment under this section, the Board may consider any circumstances it determines to be relevant and the Board shall consider the behavior of the victim, and whether, because of provocation or otherwise, the victim bears any share of responsibility for the crime that caused his injury or death and the Board shall reduce the amount of compensation in accordance with its assessment of the degree of such responsibility attributable to the victim.

"(d) No order may be made under this section unless the Board, with or

without hearings, supported by substantial evidence, finds that-

"(1) such an act or omission did occur; and

"(2) the injury or death was proximately caused by such act or omission. "(e) An order may be made under this section whether or not any person is prosecuted or convicted of any crime arising out of such act or omission or if such act or omission is the subject of any other legal action. The Board may suspend proceedings in the interest of justice if a civil action arising from such act or omission is pending or imminent.

"CRIMES TO WHICH THIS PART APPLIES

"Sec. 458. (a) The Board may order the payment of, and pay, compensation for pecuniary loss in accordance with the provisions of this part for personal injury or death which resulted from crimes in the following categories—

"(1) aggravated assault;

- "(2) arson;
- "(3) assault;
- "(4) burglary;
- "(5) forcible sodomy;
- "(6) kidnaping;
- "(7) manslaughter;
- "(8) mayhem;
- "(9) murder;
- "(10) negligent homicide;
- "(11) rape;
- "(12) robbery;
- "(13) riot;
- "(14) unlawful sale or exchange of drugs;
- "(15) unlawful use of explosives; "(16) unlawful use of firearms;
- "(17) any other crime involving the use of force, including poisoning, to the person; or

"(18) attempts to commit any of the aforegoing.

"(b) For the purposes of this part, the operation of a motor vehicle, boat, or aircraft that results in an injury or death shall not constitute a crime unless the injuries were intentionally inflicted through the use of such vehicle, boat, or aircraft.

"(c) For the purposes of this part, a person shall be deemed to have committed a criminal act or omission notwithstanding that by reason of age, insanity, drunkenness, or otherwise he was legally incapable of committing a crime.

"WHO MAY RECOVER LOSS

"Sec. 459. A person is entitled to make application for an order of compensation under this part if he is a victim, he was a person who was dependent on a victim at the time of the personal injury or death of the victim, or he suffered pecuniary loss as a result of the personal injury or death of the victim.

"APPLICATION FOR PAYMENT OF COMPENSATION

"Sec. 460. (a) In any case in which the person entitled to make application is a child, or incompetent, the application may be made on his behalf by any person acting as his relative, guardian, or attorney.

"(b) Where any application is made to the Board under this part, the applicant, or his attorney, and any attorney of the Board, shall be entitled to appear

and be heard.

"(c) Any other person may appear and be heard who satisfies the Board that he has a substantial interest in the proceedings.

"ATTORNEY'S FEES

"Sec. 461. (a) The Board shall publish regulations providing that an attorney may, at the conclusion of proceedings under this part, file with the Board an appropriate statement for a fee in connection with services rendered in such proceedings.

"(b) After the fee statement is filed by an attorney under subsection (a) of this section, the Board shall award a fee to such attorney on the same terms and conditions as is provided for the payment of representation under section 3006A

of title 18 of the United States Code.

"(c) Any attorney who charges or collects for services rendered in connection with any proceedings under this part any fee in any amount in excess of that allowed under this section shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

"CHARACTER OF COMPENSATION

"Sec. 462. The Board may order the payment of compensation under this part for any pecuniary loss actually and necessarily incurred as a result of the personal injury or death of the victim.

"FINALITY OF DECISION

"Sec. 463. The orders and decisions of the Board shall be reviewable in the appropriate court of appeals, except that no trial de novo of the facts determined by the Board shall be allowed.

"LIMITATIONS UPON PAYMENT OF COMPENSATION

"Sec. 464. (a) No order for the payment of compensation shall be made under this part unless the Board finds that the applicant will suffer undue financial hardship from pecuniary loss incurred as a result of the injury or death of the victim if the order for the payment of compensation is not made. In determining undue financial hardship for the purposes of this subsection, the Board shall consider all of the financial resources of the applicant. The Board shall establish standards by rule for determining such undue financial hardship.

"(b) No order for the payment of compensation shall be made under this part unless the application has been made within one year after the date of the per-

sonal injury or death.

"(c) No order for the payment of compensation shall be made under this part unless the applicant has incurred a minimum pecuniary loss of \$100 or has lost

two continuous weeks' earnings or support.

"(d) The criminal or an accomplice of a criminal, a member of the family of the criminal, a person living in the household of the criminal, or a person maintaining sexual relations with the criminal shall not be eligible to receive compensation with respect to a crime committed by the criminal.

"(e) No order for the payment of compensation under this part shall be made unless the act resulting in the personal injury or death for which the compensation is to be paid was reported to the law enforcement officials within seventytwo hours after its occurrence, unless the Board finds that the failure to report was justified by good cause.

"(f) The aggregate of orders for the payment of compensation under this part as the result of any one criminal act, omission, or occurrence shall not be in

excess of \$50,000.

"(g) The Board, upon finding that any applicant or beneficiary of any payment of compensation has not fully cooperated with all law enforcement agencies, may deny or withdraw any order of payment of compensation.

"TERMS AND PAYMENT OF THE ORDER OF COMPENSATION

"Sec. 465, (a) Except as otherwise provided in this section, any order for the payment of compensation under this part may be made on such terms and conditions as the Board deems necessary and appropriate to carry out the purposes of this part.

"(b) The Board shall deduct from any payments ordered under section 457 of this part any payments received by applicant—

"(1) from the criminal or from any person on behalf of the criminal;

"(2) under insurance programs mandated by law;

"(3) from the United States, a State or any of its subdivisions, for a personal injury or death otherwise compensable under this part; and

"(4) under contract of insurance wherein the applicant is the insured

or beneficiary—

but only to the extent that the sum of such payments plus any payment ordered under this part would be in excess of the total compensable injuries suffered by the applicant as determined by the Board.

"(c) The Board shall pay to the person named in the order of payment of compensation the amount named therein in accordance with the provisions of

such order.

"(d) No order for the payment of compensation made under this part shall be subject to execution or attachment other than for expenses resulting from the

injury or death which is the basis for the application.

"(e) In the case of a payment for the benefit of a child or incompetent, the Board shall order the payee to file an accounting with the Board no later than January 31 of each year for the previous calendar year and to take such other action as the Board shall determine to be necessary and appropriate for the benefit of the child or incompetent.

"EMERGENCY AWARDS

"Sec. 466. (a) Whenever the Board determines, prior to taking action upon an application that—

"(1) such application is one with respect to which an order of payment

will probably be made, and

"(2) undue hardship may result to the applicant if immediate payment is not made.

the Board may order emergency payments to the applicant pending a final decision on the application.

"(b) The amount of any emergency payment ordered under subsection (a) of this section shall be leducted from the amount of any final order for the pay-

ment of compensation made to the applicant.

"(c) Where the amount of any emergency payment ordered under subsection (a) of this section exceeds the amount of the final order for the payment of compensation, or if there is no order for the payment of compensation made, the recipient of any such emergency payment shall be liable for the repayment of such amount in accordance with rules and regulations prescribed by the Board. The Board may waive all or part of such repayment where in its judgment such repayment would involve severe financial hardship.

"RECOVERY FROM THE CRIMINAL

"Sec. 467. (a) Whenever any person is convicted of a crime and an order for the payment of compensation is or has been made under this part for a personal injury or death resulting from the act or omission constituting such crime, the Attorney General may, within one year from the date on which the judgment of conviction became final, institute an action against such person for the recovery of the whole or any specified part of such compensation in the district court of the United States for any judicial district in which such person resides or is found. Such court shall have jurisdiction to hear, determine, and render judgment in any such action. Any amounts recovered under this subsection shall be deposited in the Criminal Victim Indemnity Fund. If an amount greater than that paid pursuant to the order for payment of compensation is recovered and collected in any such action, the Board shall pay the balance to the applicant.

"(b) Process of the district court for any judicial district in any action under this section may be served in any judicial district of the United States by the United States marshal thereof. Whenever it appears to the court in which any action under this section is pending that other parties should be brought before the court in such action, the court may cause such other parties to be summoned

from any judicial district of the United States.

"(c) The Board shall provide to the Attorney General such information, data,

and reports as the Attorney General may require to institute actions in accordance with this section.

"EFFECT ON CIVIL ACTIONS

"Sec. 468. An order for the payment of compensation under this part shall not effect the right of any person to recover damages from any other person by a civil action for the injury or death.

"INDEMNITY FUND

"Sec. 469. There is hereby created on the books of the Treasury of the United States a fund known as the Criminal Victim Indemnity Fund (hereinafter referred to as the 'fund'). The fund shall consist of such amounts as may be deposited in, or appropriated to such fund, as provided by law, or as may be contributed to such fund by public or private agencies or organizations or individuals.

"DUTY TO INFORM VICTIMS

"Sec. 470. (a) Each Federal law enforcement agency investigating a crime to which this part applies shall inform victims of their eligibility to make an application for an order of compensation under this part. Such agency shall provide forms (as prescribed by the Board) to each person who is eligible to file a claim pursuant to this part.

"(b) If a victim of a crime does not cooperate with a law enforcement agency in the identification, apprehension, and conviction of the perpetrator of the crime, any Federal law enforcement agency involved shall immediately notify

the Board of such lack of cooperation.

"REPORTS TO CONGRESS

"Sec. 471. The Board shall transmit to the Congress an annual report of its activities under this part, including the name of each applicant, a brief description of the facts in each case and the amount, if any, of compensation awarded.'

COMPENSATION OF BOARD MEMBERS AND PERSONNEL

Sec. 103. (a) Section 5314 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(58) Chairman, Violent Crimes Compensation Board."

(b) Section 5315 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(95) Members, Violent Crimes Compensation Board."
(c) Section 5316 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

'(131) Executive Secretary. Violent Crimes Compensation Board." "(132) General Counsel, Violent Crimes Compensation Board."

Sec. 104. (a) Chapter 227 of title 18 of the United States Code is amended by adding at the end thereof the following new section:

"§ 3579. Fine imposed for Criminal Victim Indemnity Fund

"In any court of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, upon conviction of a person of a crime resulting in the personal injury or death of another person, the court shall take into consideration the financial conditions of such person, and may, in addition to any other penalty, order such person to pay a fine commensurate in amount with the personal injury or death of such other person and such fine shall be deposited into the Criminal Victim Indemnity Fund of the United States."

(b) The analysis of chapter 227 of title 18 of the United States Code is amended

by adding at the end thereof the following new item:

"§ 3579. Fine imposed for Criminal Victim Indemnity Fund."

PART B-FEDERAL GRANT PROGRAM

Sec. 105. Subsection (b) of section 301 of part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by adding at the end thereof the following new paragraph:

"(10) The Federal share of the costs of State programs to compensate victims of violent crime."

Sec. 106. Section 303 of such Act is amended by inserting "(a)" immediately

"303" and by adding at the end thereof the following new subsections:

"(b) In the case of a State applying for the Federal share of costs of State programs to compensate victims of violent crime, the Administration shall make grants to a State only if, after consultation with the Violent Crimes Compensation Board, it determines, pursuant to criteria established under this title, that such State has enacted legislation of general applicability within such State-

"(1) establishing a State agency having the capacity to hear or determine applications based on financial need brought by or on behalf of the innocent victims of violent crime and others suffering pecuairy loss therefrom and

order the payment of such claims;

"(2) providing for the payment of compensation for pecuniary loss actually and necessarily incurred for personal injuries or death resulting from crimes in categories established pursuant to section 308 of this title; and

"(3) containing adequate provisions for the recovery of compensation sub-

stantially similar to those contained in part F of of this title.

"(c) Any State desiring to receive a grant under paragraph 10 of subsection (b) of section 301 of this title shall submit to the Administration a State plan. Each such plan shall-

"(1) provide that the program for which assistance under this title is sought will be administered by or under the supervision of a State agency;

"(2) set forth a program for the compensation of victims of violent crime which is consistent with the requirements set forth in subsection (b) of this

"(3) provide assurances that the State will pay from non-Federal sources

the remaining cost of such program;

"(4) provide that such fiscal control and fund-accounting procedures will be adopted as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State under this title; and

"(5) provide that the State will submit to the Administration—

"(A) periodic reports evaluating the effectiveness of payments received under this title in carrying out the objectives of the compensation

program, and

"(B) such other reports as may be reasonably necessary to enable the Administration to perform its functions, including such reports as it may require to determine the amounts which local public agencies of that State are eligible to receive for any fiscal year, and assurances that such State will keep such records and afford such access thereto as the Administration may find necessary to assure the correctness and verification of such reports.

"(6) contain other data and assurance as the Administration deems

necessary and appropriate.

"(d) The Administration shall approve a plan which meets the requirements specified in subsection (c) of this section and it shall not finally disapprove a plan except after reasonable notice and opportunity for a hearing to such State."

BASIC CRITERIA

Sec. 107. Part C of the Omnibus Crime Control and Safe Sereets Act of 1968, as amended, is amended by adding at the end thereof the following new sections:

"Sec. 308. The Administration shall establish by regulation criteria to be applied under paragraph (10) of subsection (b) of section 301 of this title. In addition to other matters such criteria shall include standards for-

"(1) the persons who shall be eligible for compensation,

"(2) the categories of crimes for which compensation may be ordered.

"(3) the losses for which compensation may be ordered, and

"(4) such other terms and conditions for the payment of such compensa-

tion as the Administration deems necessary and appropriate. "Sec. 309. (a) The Administration shall pay in any fiscal year to each State which has a plan approved pursuant to this title for that fiscal year the Federal share of the cost of such plan as determined by it.

"(b) The Federal share of programs authorized by paragraph (10) of section

301 of this title shall be 75 per centum for any fiscal year.

TITLE II-GROUP INSURANCE FOR PUBLIC SAFETY OFFICERS

DECLARATION OF PURPOSE

SEC. 201. It is the declared purpose of Congress in this title to promote the public welfare by establishing a means of meeting the financial needs of public safety officers, including policemen, firemen, and correctional guards, their families and dependents, through insurance where commercial plans and those available from State nad local governments are not adequate and to assist State and local governments to provide such insurance.

INSURANCE PROGRAM AUTHORIZED

SEC. 202. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by this Act, is further amended by adding at the end thereof the following new part:

"PART G-GROUP INSURANCE FOR PUBLIC SAFETY OFFICERS

"DEFINITIONS

"Sec. 500. As used in this part-

"(1) 'child' means an unmarried person who is under eighteen years of age and includes a stepchild or an adopted child, an illegitimate child, a student over eighteen years of age, and a child conceived prior to but born after the personal injury or death of the public safety officer;

"(2) 'dependent' means a relative or other person who was wholly or partially dependent upon the income of the public safety officer at the time

of the personal injury or death of the public safety officer;

"(3) 'full time' means such period or type of employment or duty as may be prescribed by regulation promulgated by the Administration;
"(4) 'month' means thirty consecutive days;
"(5) 'public safety officer' means, pursuant to regulations issued by the

Administration, a person who is employed by a State or unit of general local government in any activity pertaining to—

'(A) the enforcement of the criminal laws, crime prevention, control,

or reduction, including highway patrol,

"(B) a correctional program, facility, or institution,

"(C) a court having crime jurisdiction, where the activity is determined by the Administration to be potentially dangerous because of contact with criminal suspects, defendants, prisoners, or parolees, or

"(D) firefighting, done voluntarily or otherwise, with or without com-

pensation:

"(6) 'relative' includes the spouse, parent, grandparent, stepfather, stepmother, child, grandchild, siblings of the whole or half blood, spouse's parents, niece or nephew; and

"(7) 'student' means a person who is a 'student' as defined in paragraph

(17) of section 8101 of title 5 of the United States Code.

"ELIGIBLE INSURANCE COMPANIES

"Sec. 501. (a) (1) The Administration is authorized without regard to section 3709 of the Revised Statutes, as amended, to purchase in those States where it determines that commercial insurance or State plans or those offered by a unit of general local government do not provide insurance at competitive costs with comparable coverage for life, accidental death, and dismemberment insurance issued to large employers of occupations other than public safety officers from one or more life insurance companies a policy or policies of group life insurance to provide the benefits provided under this part. Each such life insurance company must (A) be licensed to issue life, accidental death, and dismemberment insurance in each of the fifty States of the United States and in the District of Columbia, and (B) as of the most recent December 31 for which information is available to the Administration have in effect at least 1 per centum of the total amount of group life insurance which all life insurance companies have in effect in the United States.

"(2) Any life insurance company issuing such a policy shall establish an administrative office at a place and under a name designated by the Administra-

tion.

"(3) The Administration shall arrange with each life insurance company issuing any policy under this part to reinsure, under conditions approved by it, portions of the total amount of insurance under such policy with such other life insurance companies (which meet qualifying criteria set forth by the Administration) as may elect to participate in such reinsurance.

"(4) The Administration may at any time discontinue any policy which it has

purchased from any insurance company under this part.

"PERSONS INSURED: AMOUNT

"Sec. 501. (a) Any policy of insurance purchased by the Administration under this part shall automatically insure any public safety officer employed on a fulltime basis by a State or unit of local government which has (1) applied in the Administration for participation in the insurance program provided under this part, and (2) agreed to deduct from such officer's pay the amount of the premium and forward such amount to the Department of Justice or such other agency or office as is designated by the Administration as the collection agency or office for such premiums. The insurance provided under this part shall take effect from the first day agreed upon by the Administration and the responsible official of the State or unit of general local government making application for participation in the program as to public safety officers then on the payroll, and as to public safety officers thereafter entering on full-time duty from the first day of such duty. The insurance provided by this part shall so insure all such public safety officers unless any such officer elects in writing not to be insured under this part. If any such officer elects not to be insured under this part he may thereafter, if eligible, be insured under this part upon written application, proof of good health, and compliance with such other terms and conditions as may be prescribed by the Administration.

"(b) A public safety officer eligible for insurance under this part is entitled to be insured for an amount of group life insurance, plus an equal amount of group accidental death and dismemberment insurance, in accordance with the

following schedule:

''If annual payment is—		The amount of group insurance is—	
''Greater than—	But not greater than—	Life	Accidental death and dismember- ment
0	\$8,000	\$10,000	\$10,000
\$8,000	9,000	11,000	11,000
9,000	10,000	12,000	12,000
10,000	11,000	13,000	13,000
11,000	12,000	14,000	14,000
12,000	13,000	15,000	15, 000
13,000	14,000	16,000	16,000
14,000	15, 000	17,000	17,000
15,000	16,000	18,000	18,000
16,000	17, 000	19, 000	19,000
17,000	18, 000	20,000	20, 000
18,000	19,000	21,000	21,000
19,000	20,000	22,000	22,000
20,000	21,000	23, 000	23,000
21,000	22,000	24,000	24,000
22,000	23, 000	25, 000	25, 000
23,000	24,000	26,000	26,000
24,000	25, 000	27,000	27,000
25,000	26,000	28, 060	28,000
26,000	27, 000	29, 000	29,000
27,000	28, 000	30,000	30,000
28,000	29, 000	31,000	31,000
29,000		32, 000	32,000

The amount of such insurance shall automatically increase at any time the amount of increases in the annual basic rate of pay places any such officer in a new pay bracket of the shedule.

"(c) Subject to the conditions and limitations approved by the Administration and which shall be included in the policy purchased by it, the group, accidental death, and dismemberment insurance shall provide for the following payments:

"Loss For loss of life____.

Loss of one hand or of one foot or loss of sight of one eye.

Loss of two or more members or loss of sight in both eyes.

Amount payable

Full amount shown in the schedule in subsection (b) of this section.

One-half of the amount shown in the schedule in subsection (b) of this section.

Full amount shown in the schedule in subsection (b) of this section.

The aggregate amount of group accidental death and dismemberment insurance that may be paid in the case of any insured as the result of any one incident may not exceed the amount shown in the schedule in subsection (b) of this

"(d) The Administration shall prescribe regulations providing for the conversion of other than annual rates of pay to annual rates of pay and shall specify the types of pay included in annual pay.

"TERMINATION OF COVERAGE

"Sec. 503. Each policy purchased under this part shall contain a provision, in terms approved by the Administration, to the effect that any insurance thereunder on any public safety officer shall cease thirty-one days after (1) his separation or release from full-time duty as such an officer or (2) discontinuance of his pay as such an officer, whichever is earlier.

"CONVERSION

"Sec. 504. Each policy purchased under this part shall contain a provision for the conversion of such insurance effective the day following the date such insurance would cease as provided in section 503 of this part. During the period such insurance is in force, the insured, upon request to the administrative office established under section 501 of this part, shall be furnished a list of life insurance companies participating in the program established under this part and upon written application (within such period) to the participating company selected by the insured and payment of the required premiums be granted insurance without a medical examination on a permanent plan then currently written by such company which does not provide for the payment of an additional amount of premiums if the insured engages in public safety activities. In addition to the life insurance companies participating in the program established under this part, such list shall include additional life insurance companies (not so participating) which meet qualifying criteria, terms, and conditions established by the Administration and agree to sell insurance to any eligible insured in accordance with the provisions of this section.

"WITHHOLDING OF PREMIUMS FROM PAY

"Sec. 505. During any period in which a public safety officer is insured under a policy of insurance purchased by the Administration under this part his employer shall withhold each month from his basic or other pay until separation or release from full-time duty as a public safety officer an amount determined by the Administration to be such officer's share of the cost of his group life insurance and accidental death and dismemberment insurance. Any such amount not withheld from the basic or other pay of such officer insured under this part while on full-time duty as a public safety officer, if not otherwise paid, shall be deducted from the proceeds of any insurance thereafter payable. The initial monthly amount determined by the Administration to be charged any public safety officer for each unit of insurance under this part may be continued from year to year, except that the Administration may redetermine such monthly amount from time to time in accordance with experience.

"SHARING OF COST OF INSURANCE

"Sec. 506. For each month any public safety officer is insured under this part the Administration shall bear not to exceed one-quarter of the cost of such insurance or such lesser amount as may from time to time be determined by the Administration to be a practicable and equitable obligation of the United States in assisting the States and units of local government in recruiting and retaining personnel for their public safety forces.

"INVESTMENT EXPENSES

"Sec. 507. (a) The amounts withheld from the basic or other pay of public safety officers as premiums for insurance under section 505 of this part and any sums contributed by the Administration under section 506 of this part, together with the income derived from any dividends or premium rate readjustment from insurers, shall be deposited to the credit of a revolving fund established in the Treasury of the United States. All premium payments on any insurance policy or policies purchased under this part and the administrative cost of the insurance program established by this part to the department or agency vested with the responsibility for its supervision shall be paid from the revolving fund.

"(b) The Administration is authorized to set aside out of the revolving fund such amounts as may be required to meet the administrative cost of the program to the department, agency, or office designated by it, and all current premium payments on any policy purchased under this part. The Secretary of the Treasury is authorized to invest in and to sell and retire special interest-bearing obligations of the United States for the account of the revolving fund. Such obligations issued for the purpose of this part shall have maturities fixed with due regard for the needs of the fund and shall bear interest at a rate equal to the average market yield (computed by the Secretary of the Treasury on the basis of market quotations as of the end of the calendar month next preceding the date of issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest of such obligation shall be the multiple of one-eighth of 1 per centum nearest market yield. The interest on and the proceeds from the sale of these obligations, and the income derived from dividend or premium rate adjustments from insurers, shall become a part of the revolving fund.

"BENEFICIARIES: PAYMENT OF INSURANCE

Sec. 508. (a) Any amount of insurance in force under this part on any public safety officer or former public safety officer on the date of his death shall be paid, upon establishment of a valid claim therefor, to the person or persons surviving at the date of his death, in the following order or precedence:

'(1) to the beneficiary or beneficiaries as the public safety officer or former public safety officer may have designated by a writing received in his

employer's office prior to his death;

"(2) if there is no such beneficiary or no dependent, to the spouse of such officer or former officer;

"(3) if there is no such beneficiary or no such spouse, to the dependents, in equal shares;

'(4) if there are both a spouse and one or more dependents, one-half to the spouse and one-half to the dependents in equal shares;

(5) if none of the above, to the parents of such officer or former officer or to the survivor of them;

"(6) if none of the above, to the duly appointed executor or administrator of the estate of such officer or former officer; or

"(7) if none of the above, to the other next of kin of such officer or former officer entitled under the laws of domicile of such officer or former officer time of his death.

"(b) If any person otherwise entitled to payment under this section does not make claim therefor within one year after the death of the public safety officer or former public safety officer, or if payment to such person within that period is prohibited by Federal statute or regulation, payment may be made in the order of precedence as if such person had predeceased such officer or former officer, and any such payment shall be a bar to recovery by any other person.

(c) If, within two years after the death of a public safety officer or former public safety officer, no claim for payment has been filed by any person entitled under the order of precedence set forth in this section, and neither the Administration nor the administrative office established by any insurance company pursuant to this title, has received any notice that any such claim will be made, payment may be made to a claimant as may in the judgment of the Administration be equitably entitled thereto, and such payment shall be a bar to recovery by any other person. If, within four years after the death of the public safety officer or former public safety officer, payment has not been made pursuant to this part and no claim for payment by any person entitled under this part is pending, the amount payable shall escheat to the credit of the revolving fund referred to in section 507 of this part.

"(d) The public safety officer may elect settlement of insurance under this part either in a lump sum or in thirty-six equal monthly installments. If no such election is made by such officer, the beneficiary may elect settlement either in a lump sum or in thirty-six equal monthly installments. If any such officer has elected settlement in a lump sum, the beneficiary may elect settlement in thirty-

six equal monthly installments.

"BASIC TABLES OF PREMIUMS: READJUSTMENT OF RATES

"Sec. 509. (a) Each policy or policies purchased under this part shall include for the first policy year a schedule of basic premium rates by age which the Administration shall have determined on a basis consistent with the lowest schedule of basic premium rates generally charged for new group life insurance policies issued to large employers, this schedule of basic premium rates by age to be applied, except as otherwise provided in this section, to the distribution by age of the amount of group life insurance and group accidental death and dismemberment insurance under the policy at its date of issue to determine an average basic premium per \$1,000 of insurance. Each policy so purchased shall also include provisions whereby the basic rates of premium determined for the first policy year shall be continued for subsequent policy years, except that they may be readjusted for any subsequent year, based on the experience under the policy, such readjustment to be made by the insurance company issuing the policy on a basis determined by the Administration in advance of such year to be consistent with the general practice of life insurance companies under policies of group life insurance and group accidental death and dismemberment insurance issued to large employers.

"(b) Each policy so purchased shall include a provision that, in the event the Administration determines that ascertaining the actual age distribution of the amounts of group life insurance in force at the date of issue of the policy or at the end of the first or any subsequent year of insurance thereunder would not be possible except at a disproportionately high expense, the Administration may approve the determination of a tentative average group life premium, for the first or any subsequent policy year, in lieu of using the actual age distribution. Such tentative average premium rate shall be redetermined by the Administration during any policy year upon request by the insurance company issuing the policy, if experience indicates that the assumptions made in determining the

tentative average premium rate for that policy year were incorrect.

"(c) Each policy so purchased shall contain a provision stipulating the maximum expense and risk charges for the first policy year, which charges shall have been determined by the Administration on a basis consistent with the general level of such charges made by life insurance companies under policies of group life insurance and group accidental death and dismemberment insurance issued to large employers. Such maximum charges shall be continued from year to year, except that the Administration may redetermine such maximum charges for any year either by agreement, with the insurance company or companies issuing the policy or upon written notice given by the Administration to such companies at least one year in advance of the beginning of the year for which such redetermined maximum charges will be effective.

"(d) Each such policy shall provide for an accounting to the Administration not later than ninety days after the end of each policy year, which shall set forth, in a form approved by the Administration. Such accounting shall include: (1) the amounts of premiums actually accrued under the policy from its date of issue to the end of such policy year, (2) the total of all mortality, dismemberment, and other claim charges incurred for that period, and (3) the amounts of the insurers' expense and risk charge for that period. Any excess of the total items (1) over the sum of items (2) and (3) shall be held by the insurance company issuing the policy as a special contingency reserve to be used by such insurance company

for charges under such policy only, such reserve to bear interest at a rate to be determined in advance of each policy year by the insurance company issuing the policy, which rate shall be approved by the Administration as being consistent with the rates generally used by such company or companies for similar funds held under other group life insurance policies. If and when the Administration determines that such special contingency reserve has attained an amount estimated by the Administration to make satisfactory provision for adverse fluctuations in future charges under the policy, any further excess shall be deposited to the credit of the revolving fund established under this part. If and when such policy is discontinued, and if, after all charges have been made, there is any positive balance remaining in such special contingency reserve, such balance shall be deposited to the credit of the revolving fund, subject to the right of the insurance company issuing the policy to make such deposit in equal monthly installments over a period of not more than two years.

"BENEFIT CERTIFICATES

"Sec. 510. The Administration shall arrange to have each public safety officer insured under a policy purchased under this part receive a certificate setting forth the benefits to which the member is entitled thereunder, to whom such benefit shall be payable, to whom claims should be submitted, and summarizing the provisions of the policy principally affecting the member. Such certificate shall be in lieu of the certificate which the insurance company would otherwise be required to issue.

"AUTHORIZATION FOR USE OF APPROPRIATIONS

"Sec. 511. Until specific appropriations are made for carrying out the purposes of this part, any appropriation made to the Department of Justice or the Law Enforcement Assistance Administration for grants, activities or contracts shall, in the discretion of the Attorney General, be available for payments of obligations arising under this part.

"ADVISORY COUNCIL ON PUBLIC SAFETY OFFICER GROUP LIFE INSURANCE

"Sec. 512. There is hereby established an Advisory Council on Public Safety Officers' Group Life Insurance consisting of the Attorney General as Chairman, the Secretary of the Treasury, the Secretary of Health, Education, and Welfare, and the Director of the Office of Management and Budget, each of whom shall serve without additional compensation. The Council shall meet not less than once a year, or at the call of the Attorney General, and shall review the administration of this title and advise the Attorney General on matters of policy relating to his activities thereunder. In addition, the Attorney General may solicit advice and recommendations from any State or unit of local government participating in the public safety officers' group life insurance program.

"PREMIUM PAYMENT ON BEHALF OF PUBLIC SAFETY OFFICERS

"Sec. 513. Nothing in this part shall be construed to preclude any State or unit of local government from making payments on behalf of public safety officers of the premiums required to be paid by them for any group life insurance program authorized by this part or any such program carried out by a State or unit of local government."

AMENDMENT TO LAW ENFORCEMENT ASSISTANCE PROGRAM

Sec. 203. (a) Subsection (b) section 301 of part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968 as amended by this Act is further amended by adding at the end thereof the following new paragraph:

"(11) The establishment of one or more separate or combined statewide group life, accidental death and dismemberment insurance programs for public safety officers as defined in paragraph (5) of section 500 of part G of this title.

(b) Subsection (d) of such section is amended by striking out the first word and inserting in lieu thereof the following: "Except for grants made pursuant to paragraph (11) of subsection (b) of this section not".

TITLE III—DEATH AND DISABILITY BENEFITS FOR PUBLIC SAFETY OFFICERS

DECLARATION OF PURPOSE

Sec. 301. It is the purpose of this title to promote the public welfare by establishing a Federal minimum death and dismemberment benefit to public safety officers, their families and dependents.

Sec. 302. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by this Act, is further amended by adding at the end thereof the

following new part:

"PART II—DEATH AND DISABILITY BENEFITS FOR PUBLIC SAFETY OFFICER

"DEFINITIONS

"Sec. 525. As used in this part—

"(1) 'child' means an unmarried person who is under eighteen years of age and includes a stepchild or an adopted child, an illegitimate child, and student over eighteen years of age, and a child conceived prior to but born after the personal injury or death of the victim;

"(2) 'dependent' means a relative or other person who was wholly or partially dependent upon the income of the victim at the time of the personal

injury or death of the victim:

"(3) 'public safety officer' means, pursuant to regulations issued by the Administration, a person who is employed by a State or unit of general local government in any activity pertaining to—

"(A) the enforcement of the criminal laws, crime prevention, control

or reduction, including highway patrol,

"(B) a correctional program, facility, or institution,

"(C) a court having crime jurisdiction, where the activity is determined by the Administration to be potentially dangerous because of contact with criminal suspects, defendants, prisoners or parolees, or

"(D) firefighting, done voluntarily or otherwise, with or without

compensation:

"(4) 'relative' includes a spouse, parent, grandparent, stepfather, stepmother, child, grandchild, siblings of the whole or half blood, a spouse's parents, a niece or nephew; and

"(5) 'student' means a person who is a 'student' as defined in paragraph

(17) of section 8101 of title 5 of the United States Code.

"DEATH AND DISABILITY BENEFITS FOR PUBLIC SAFETY OFFICERS

"Sec. 526. (a) Under regulations issued by the Administration under part I of this title, upon certification to the Administration by the Governor of any State that a public safety officer employed on a full- or part-time basis has been killed or disabled as the result of a criminal act in the line of duty, the Administration shall pay a benefit as provided in subsection (d) of section 527 of this part in the following order of precedence:

"(1) If the public safety officer was disabled, to the public safety officer. "(2) If the public safety officer was killed and there is no spouse, to the

dependent or dependents in equal shares.

"(3) If the public safety officer was killed and there are both a spouse and one or more dependents, one-half to the spouse and one-half to the de-

pendents in equal shares.

"(b) The benefit payable to any person under this part is in addition to any benefits to which he may be entitled under any other law other than compensation for pecuniary loss made pursuant to part F of this title or a State program established under paragraph (10) of section 301 of part C of this title.

"(c) The benefit payable to any person under this part may be made in a lump sum, in such equal monthly installments, or in such other fashion as the Ad-

ministration determines will be appropriate.

"(d) No award made pursuant to this part shall be subject to execution or attachment other than for pecuniary loss resulting from the injury or death which is the basis for the certification.

"AWARDS

"Sec. 527. (a) Whenever the Administration determines, prior to acting upon a certification that such certification is one with respect to which a benefit will probably be made, the Administration may make interim benefit payments to the public safety officer, spouse, or dependents pending a final certification of the

'(b) The amount of any interim benefit paid under subsection (a) shall be deducted from the amount of any final benefit paid to the public safety officer,

spouse, or dependent.

"(c) Where the amount of any interim benefit paid under subsection (a) exceeds the amount of the final benefit, or if there is no final benefit paid, the recipient of any such interim benefit shall be liable for repayment of such amount in accordance with rules and regulations prescribed by the Administration. The Administration may waive all or part of such repayment where in its judgment such repayment would invoke severe hardship.

"(d) Subject to conditions and limitations as he may establish, the Adminis-

tration shall provide for the following payments:

"Loss	Amount payable
Loss of one hand or of one foot or loss of sight of one eve	\$50,000
Loss of two or more members or loss of sight in both eyes	50, 000."

"AMENDMENT TO THE INTERNAL REVENUE CODE OF 1954

"Sec. 528. Section 101(b)(2)(A) of the Internal Revenue Code of 1954 (relating to death benefits excluded from gross income) is amended to read as follows: "'(A) \$5,000 Limitation.—The aggregate amounts excludable under paragraph (1) with respect to the death of any employee shall not exceed \$5,000, except that not to exceed \$50,000 shall be excludable under the provisions of part L of the Omnibus Crime Control and Safe Streets Act of 1968, as amended."

TITLE IV—CIVIL REMEDIES FOR VICTIMS OF RACKETEERING ACTIVITY

PURPOSE

Sec. 401. It is the purpose of this title to promote the general welfare by strengthening the civil remedies available to the victim of racketeering activity.

EXPANDED JURISDICTION

Sec. 402. (a) Section 1964 of title 18 of the United States Code is amended by-(1) inserting in subsection (a) ", without regard to the amount in con-

troversy," immediately after "jurisdiction."

(2) inserting in subsection (b) "subsection (a) of" after "under" each time it appears;

(3) striking out in subsection (b) "action" and inserting in lieu thereof in lieu thereof "proceedings"; and

(4) striking subsections (c) and (d) thereof in their entirety and inserting in lieu thereof the following:

"(c) Any person may institute proceedings under subsection (a) of this section. In any proceeding brought by any person under subsection (a) of this section, relief shall be granted in conformity with the principles which govern the granting of injunctive relief from threatened loss or damage in other cases. Upon the execution of proper bond against damages for an injunction improvidently granted and showing of immediate danger or irreparable loss or damage, a preliminary injunction may be issued in any action before a determination thereof upon its merits.

"(d) Whenever the United States is injured in its business or property by reason of any violation of section 1962 of this chapter, the Attorney General may bring a civil action in a district court of the United States, without regard to the amount in controversy, and shall recover

the actual damages sustained by it, and the cost of the action.

"(e) Any person who is injured in his business or property by reason of any violation of section 1962 of this chapter may bring a civil action

in a district court of the United States, without regard to the amount in controversy, and shall recover threefold the actual damages sustained by him, and the cost of the action, including a reasonable attorney's fee.

"(f) The Attorney General may upon timely application intervene in any civil action or proceeding brought under this chapter, if the Attorney General certifies that in his opinion the case is of general public importance. In such action or proceeding, the United States shall be entitled to the same relief as if it had instituted the action or proceeding.

"(g) A final judgment or decree rendered in favor of the United States in any criminal or civil action or proceeding under this chapter shall estop the defendant in any subsequent civil proceeding as to all matters respecting which said judgment or decree would be an estoppel as be-

tween the parties thereto.

"(h) Except as hereinafter provided, any civil action under this section shall be barred unless it is commenced within five years after the cause of action accrued. Whenever any civil or criminal action or proceeding, other than an action under subsection (d) of this section, is brought or intervened in by the United States to prevent, restrain, or punish any violation of section 1962 of this chapter the running of the period of limitations prescribed by this subsection with respect to any cause of action arising under subsections (c) and (e) of this section, which is based in whole or in part on any matter complained of in such action or proceeding by the United States, shall be suspended during the pendency of such action or proceeding by the United States and for two years thereafter."

(b) Section 1965 of title 18 of the United States Code is amended by-

(1) striking out in subsection (b) "action under section 1964 of" and inserting in lieu thereof "civil action or proceeding under";

(2) striking out in subsection (c) "instituted by the United States"; and (3) inserting in subsection (d) "civil or criminal" immediately before "action".

(c) Section 1966 of title 18 of the United States Code is amended by striking "any civil action instituted under this chapter by the United States" in the first sentence and inserting in lieu thereof "any civil action or proceeding under this chapter in which the United States is a part".

(d) Section 1967 of title 18 of the United States Code is amended by striking

"instituted by the United States".

(e) Section 1968 of title 18 of the United States Code is amended by-

(1) striking out "prior to the institution of a civil or criminal proceeding" in the first sentence of subsection (a) and inserting in lieu thereof "before he institutes or intervenes in a civil or criminal action or proceeding";

(2) striking out "case" the first time it appears and inserting in lieu thereof "civil or criminal action" in paragraph (4) of subsection (f) and striking out "case" each time it appears thereafter and inserting in lieu thereof "action";

(3) striking out "case" each time it appears in paragraph (5) of subsection

(f) and inserting in lieu thereof "action"; and

(4) striking out "case" and inserting in lieu thereof "action" in paragraph

(6) of subsection (f).

TITLE V-MISCELLANEOUS PROVISIONS

REPEALS

Sec. 501. (a) Section 4-531 of the District of Columbia Code is hereby repealed.

(b) Subchapter III of chapter 81 of title 5 of the United States Code is hereby

repealed.

(c) The provisions of subsection (a) and (b) of this section shall have no effect on benefits, awards, or gratuities made or already being made prior to the date of enactment of this Act.

AUTHORIZATIONS OF APPROPRIATIONS

Sec. 502. Section 569 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended and as redesignated by this Act, is amended by inserting im-

mediately after "569" "(a)" and by adding at the end thereof the following new subsections:

"(b) There is authorized to be appropriated for the fiscal year ending June 30, 1973—

"(1) \$10,000,000 for the purposes of part F;

"(2) \$20,000,000 for the purposes of paragraph (10) of subsection (b) of

section 301 of part C.

"(c) There is authorized to be appropriated \$25,000,000 for the fiscal year ending June 30, 1972, and \$50,000,000 for the fiscal year ending June 30, 1973, for the purposes of part G.

"(d) There are authorized to be appropriated \$40,000,000 for the fiscal year ending June 30, 1972, and \$20,000,000, for the fiscal year ending June 30, 1973, for

the purposes of part H.".

SEVERABILITY

Sec. 503. If the provisions of any part of this Act are found invalid or any amendments made thereby or the application thereof to any person or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATES

Sec. 504. (a) Title I of this Act shall become effective one hundred and eighty days after the date of enactment of this Act.

(b) (1) Title II of this Act shall become effective on the date of enactment of

this Act.

(2) The insurance provided for under title II of this Act shall be placed in effect on the earliest practicable date approved by the Law Enforcement Assistance Administration of the Department of Justice.

(c) (1) Title III of this Act shall become effective with respect to any disability or death of a public safety officer as defined in paragraph (5) of section 525 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as

amended by this Act, on or after January 1, 1967.

(2) Any amount already paid to a public safety officer, spouse, or dependent as defined in paragraphs (3) and (5) of section 525 of part II of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by this Act, pursuant to Federal law for the disablement or death of such public safety officer shall be deducted from any benefit paid under title III of this Act.

[S. 2994, 92d Cong., second sess.] [Mar. 3, 1972]

AMENDMENTS Intended to be proposed by Mr. Bible to S. 2994, a bill to provide for the compensation of innocent victims of violent crime in need; to make grants to States for the payment of such compensation; to authorize an insurance program and death and disability benefits for public safety officers; to provide civil remedies for victims of racketeering activity; and for other purposes, viz:

Amdt. No. 994

On page 51, line 18, insert the following word "ACTIVITY" add "AND THEFT".

On page 51, line 22, insert immediately before the period the words "and theft".

On page 55, between lines 19 and 20, insert the following new section:

"Sec. 403. (a) Section 659 of title 18 of the United States Code is amended to read as follows:

"'§ 659. Interstate or foreign shipments by carrier; State prosecutions; civil remedies for victims of theft

"'(a) It shall be unlawful for any person to embezzle, steal, or unlawfully take, carry away, or conceal, or by fraud or deception obtain, with intent to convert to his own use, any money, baggage, goods, chattels, or other property which is moving as, or which is a part of, or which constitute an interstate or foreign shipment from any pipeline system, railroad car, wagon, motortruck, or other vehicle, or from any tank or storage facility, station, station house, platform, or depot, or from any steamboat, vessel, or wharf, or from any aircraft, air terminal, airport, aircraft terminal, or air navigation facility, or to buy, receive, or have in his possession any such money, baggage, goods, chattels,

or other property, knowing, or having reason to know, that it has been embezzled, stolen, or otherwise unlawfully taken, carried away, concealed, or obtained.

"'(b) It shall be unlawful for any person to embezzle, steal, or unlawfully take, carry away, or conceal, or by fraud or deception obtain, with intent to convert to his own use, any money, baggage, goods, chattels, or other property, which shall have come into the possession of any common carrier for transportation in interstate or foreign commerce, or to break into, embezzle, steal, unlawfully take, carry away, or conceal, or by fraud or deception obtain, with intent to convert to his own use, any of the contents of such baggage, goods, chattels, or other property, or to buy, receive, or have in his possession any such money, baggage, goods, chattels, or other property, knowing, or having reason to know that it has been embezzled or stolen or otherwise unlawfully taken, carried away, concealed, or obtained.

"'(c) It shall be unlawful for any person to embezzle, steal, or unlawfully take, carry away, conceal, or by fraud or deception obtain, with intent to convert to his own use, any money, baggage, goods, chattels, or other property from any railroad car, bus, vehicle, steamboat, vessel, or aircraft operated by any common carrier moving in interstate or foreign commerce, or from any passenger thereon, or to buy, receive, or have in his possession any such money, baggage, goods, chattels, or other property, knowing, or having reason to know, that it has been embezzled, stolen, or otherwise unlawfully taken, carried away,

concealed, or obtained.

"'(d) Whoever violates any provision of subsection (a), (b), or (c) of this section shall in each case be fined not more than \$5,000 or imprisoned not more than ten years, or both; but if the amount or value of such money, baggage, goods, chattels, or other property does not exceed \$100, he shall be fined not

more than \$1,000 or imprisoned not more than one year, or both.

"'(e) The district courts of the United States shall have jurisdiction, without regard to the amount in controversy, to prevent and restrain violations of this section by issuing appropriate orders, including, but not limited to: ordering any person to divest himself of any interest, direct or indirect, in any enterprise; imposing reasonable restrictions on the future activities or investments of any person, including, but not limited to, prohibiting any person from engaging in the same type of endeavor as the enterprise engaged in, the activities of which affect interstate or foreign commerce; or ordering dissolution or reorganization of any enterprise, making due provision for the rights of innocent persons.

"'(f) The Attorney General may institute proceedings under subsection (e) of this section. In any proceedings brought by the United States under subsection (e) of this section, the court shall proceed as soon as practicable to the hearing and determination thereof. Pending final determination thereof, the court may at any time enter such restraining orders or prohibitions, or take such other actions, including the acceptance of satisfactory performance bonds, as it shall

deem proper.

"'(g) Any person may institute proceedings under subsection (e) of this section. In any proceeding brought by any person under subsection (e) of this section, relief shall be granted in conformity with the principles which govern the granting of injunctive relief from threatened loss or damage in other cases. Upon the execution of proper bond against damages for an injunction improvidently granted and a showing of immediate danger of irreparable loss or damage, a preliminary injunction may be issued in any action before a determination thereof upon its merits.

"'(h) Whenever the United States is injured in its business or property by reason of any violation of this section, the Attorney General may bring a civil action in a district court of the United States, without regard to the amount in controversy, and shall recover the actual damages sustained by the United

States, and the cost of the action.

"'(i) Any person who is injured in his business or property by reason of any violation of this action may bring a civil action in a district court of the United States, without regard to the amount in controversy, and shall recover threefold the actual damages sustained by him, and the cost of the action, including a reasonable attorney's fee.

"'(j) Any civil action or proceeding under this section against any person may be instituted in the district court of the United States for any district in which

such person resides, is found, has an agent, or transacts his affairs.

"'(k) In any civil action or proceeding under this section in any district court of the United States in which it is shown that the ends of justice require that any other party residing in any other district be brought before the court, the court may cause such party to be summoned, and process for that purpose may be served in an judicial district of the United States by the marshal thereof.

"'(1) In any civil or criminal action or proceeding under this section in the district court of the United States for any judicial district, subpenas issued by such court to compel the attendance of witnesses may be served in any other judicial district, except that in any civil action or proceeding no such subpena shall be issued for service upon any individual who resides in another district at a place more than one hundred miles from the place at which such court is held without approval given by a judge of such court upon a showing of good cause.

"'(m) All other process in any civil or criminal action or proceeding under this section may be served on any person in any judicial district in which such person

resides, is found, has an agent, or transacts his affairs.

"'(n) The Attorney General may, upon timely application, intervene in any civil action or proceeding brought under this section if the Attorney General certifies that in his opinion the case is of general public importance. In such action or proceeding, the United States shall be entitled to the same relief as if he had instituted the action or proceeding.

"'(o) A final judgment or decree rendered in favor of the United States in any criminal action or proceeding under this section shall estop the defendant in any subsequent civil proceeding as to all matters respecting which said judgment or

decree would be an estoppel as between the parties thereto.

"'(p) Except as hereinafter provided, any civil action or proceeding under this section shall be barred unless it is commenced within five years after the cause of action accrued. Whenever any civil or criminal action or proceeding, other than an action under subsection (h) of this section, is brought or intervened in by the United States to prevent, restrain, or punish any violation of this section, the running of the period of limitations prescribed by this subsection with respect to any cause of action arising under subsection (g) or (i) of this section, which is based in whole or in part on any matter complained of in such action or proceeding by the United States, shall be suspended during the pendency of such action or proceeding by the United States and for two years thereafter.

"(q) A violation of this section shall be deemed to have been committed not only in the district where the violation first occurred, but also in any district in which the defendant may have taken or been in possession of the said money,

baggage, goods, chattels, or other property.

"'(r) The carrying or transporting of any such money, baggage, goods, chattels, or other property in interstate or foreign commerce, knowing, or having reason to know, it had been embezzled, stolen, or otherwise unlawfully taken, carried away, concealed, or obtained, shall constitute a separate violation and subject the violator to criminal penalties and a civil cause of action under this section and the violation shall be deemed to have been committed in any district into which such money, baggage, goods, chattels, or other property, shall have been removed or

into which it shall have been brought by such violator.

"'(s) To establish the interstate or foreign commerce character of any shipment in any criminal or civil action or proceeding under this section the waybill or other shipping document of such shipment shall be prima facie evidence of the place from which and to which such shipment was made. The removal of property from a pipeline system which extends interstate shall be prima facie evidence of the interstate character of the shipment of the property. Proof that a person was found in unexplained possession of any money, baggage, goods, chattels, or other property, recently embezzled, stolen, or otherwise unlawfully taken. carried away, concealed, or obtained by fraud or deception in violation of this section, shall be prima facie evidence that such person knew that such property was or that such person had embezzled, stolen, or otherwise unlawfully taken, carried away, concealed, or obtained by fraud or deception such money, baggage, goods, chattels, or other property in violation of this section. Proof that a person bought or received for a consideration substantially below its fair market value money, baggage, goods, chattels, or other property embezzled, stolen, or otherwise unlawfully taken, carried away, concealed, or obtained by fraud or deception in violation of this section shall be prima facie evidence that such person probably knew that such property was embezzled, stolen, or otherwise unlawfully taken, carried away, concealed, or obtained by fraud or deception in

violation of this section.

"'(t) A judgment of conviction or acquittal on the merits under the laws of any State shall be a bar to any criminal prosecution under this section for the same act or acts. Nothing contained in this section shall be construed as indicating an intent on the part of Congress to occupy the field in which provisions of this section operate to the exclusion of State laws on the same subject matter, nor shall any provision of this section be construed as invalidating any provision of State law unless such provision is inconsistent with any of the purposes of this section or any provision thereof.'

"(b) The analysis at the beginning of chapter 31 of title 18 of the United

States Code, for section 659, is amended to read:

"'659. Interstate or foreign baggage, express or freight; State prosecutions; civil remedies for victims of theft'.".

[S. 2994, 92d Cong., second sess.] [Mar. 28, 1972]

AMENDMENTS Intended to be proposed by Mr. Mondale to S. 2994, a bill to provide for the compensation of innocent victims of violent crime in need; to make grants to States for the payment of such compensation; to authorize an insurance program and death and disability benefits for public safety officers; to provide civil remedies for victims of racketeering activity; and for other purposes, viz:

On page 27, strike out lines 10, 11, and 12, and insert in lieu thereof the following:

"(2) set forth a program for the compensation of victims of violent crime which is equal to the requirements of the Victims of Crime Act of 1972.".

On page 13, between lines 19 and 20, insert the following new paragraph:

"(3) five or more years after the date of enactment of this Act within a State that has not established or maintained a program which is eligible for grants under section 301(b)(10) of the Omnibus Crime Control and Safe Streets Act of 1968, for the compensation of victims of violent crime.".

Amdt. No. 1087

[S. 2994, 92d Cong., second sess.] [Mar. 28, 1972]

AMENDMENTS Intended to be proposed by Mr. Mondale to S. 2994, a bill to provide for the compensation of innocent victims of violent crime in need; to make grants to States for the payment of such compensation; to authorize an insurance program and death and disability benefits for public safety officers; to provide civil remedies for victims of racketeering activity; and for other purposes, viz:

On page 16, between lines 10 and 11, insert the following new subsection:

"(d) The Board may also order payment of, and pay, compensation in accordance with the provisions of this Act for personal injury or death which resulted from the flight or pursuit of a criminal or suspected criminal."

On page 18, line 7, strike out through line 13 on page 19, and insert in lieu

thereof the following:

"Sec. 464. (a) No order for the payment of compensation shall be made unless—

"(1) the act, to which the personal injury or death to be compensated for is based, was reported to the proper law enforcement authorities within seventy-two hours after its occurrence, unless the Board finds that the requirements of this paragraph are unreasonable; and

"(2) the application has been made within two years of the personal

injury or death.

"(b) No compensation shall be awarded in any situation in which the Board, at its discretion, determines that unjust enrichment to or on behalf of the offender would result.

"(c) Compensation shall be paid as follows:

"(1) 100 per centum of all hospital and medical bills and for any other pecuniary loss or expense proximately arising from the injury or death to be compensated for;

"(2) loss of earning power not to exceed twice the average weekly industrial wage as determined by the Board, until the victim resumes gainful employment at a rate equal to or in excess of the rate of earning power that the victim had at the time of his injury; and

"(3) an amount not to exceed \$10,000 for pain and suffering.". On page 19, line 14, redesignate subsection "(g)" as subsection "(d)".

Amdt. No. 1088

[S. 2994, 92d Cong., second sess.]

AMENDMENTS Intended to be proposed by Mr. Mondale to S. 2994, a bill to provide for the compensation of innocent victims of violent crime in need; to make grants to States for the payment of such compensation; to authrioze an insurance program and death and disability benefits for public safety officers; to provide civil remedies for victims of racketeering activity; and for other purposes, viz:

Amdt. No. 1089

On page 3, strike out line 5 through line 8 on page 4, and insert in lieu thereof the following:

"Sec. 102. The Longshoremen's and Harbor Workers' Act (44 Stat. 1424) is amended by inserting:

"'TITLE I-LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION'

immediately above the heading of section 1, by striking out 'this Act' wherever it appears and inserting in lieu thereof 'this title' and by adding immediately after section 51 the following new title:

" "TITLE II—CRIMINAL INJURIES COMPENSATION".". On page 6, line 23, strike out "Justice" and insert in lieu thereof "Labor".

On page 7, line 14, strike out "456" and insert in lieu thereof "207". On page 4, line 10, strike out "450" and insert in lieu thereof "201"

On page 6, line 22, strike out "451" and insert in lieu thereof "202" On page 7, line 20, strike out "452" and insert in lieu thereof "203" On page 8, line 10, strike out "453" and insert in lieu thereof "204" On page 10, line 16, strike out "454" and insert in lieu thereof "205" On page 11, line 13, strike out "455" and insert in lieu thereof "206" On page 11, line 20, strike out "456" and insert in lieu thereof "207" On page 13, line 10, strike out "457" and insert in lieu thereof "208". On page 15, line 4, strike out "458" and insert in lieu thereof "209". On page 16, line 12, strike out "459" and insert in lieu thereof "210". On page 16, line 19, strike out "460" and insert in lieu thereof "211" On page 17, line 5, strike out "461" and insert in lieu thereof "212". On page 17, line 21, strike out "462" and insert in lieu thereof "213". On page 18, line 2, strike out "463" and insert in lieu thereof "214". On page 18, line 7, strike out "464" and insert in lieu thereof "215"

On page 19, line 19, strike out "465" and insert in lieu thereof "216" On page 21, line 4, strike out "466" and insert in lieu thereof "217"

On page 22, line 2, strike out "467" and insert in lieu thereof "218".

On page 23, line 6, strike out "468" and insert in lieu thereof "219".

On page 23, line 11, strike out "469" and insert in lieu thereof "220".

On page 23, line 19, strike out "470" and insert in lieu thereof "221".

On page 24, line 6, strike out "471" and insert in lieu thereof "222".

[S. 2995, 92d Cong., first sess.]

A BILL To provide for the compensation of innocent victims of violent crime in need; to make grants to States for the payment of such compensation; to authorize an insurance program and death and disability benefits for public safety officers; to provide civil remedies for victims of racketeering activity; and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Victims of Crime Act of 1972".

STATEMENT OF FINDINGS AND PURPOSE

The Congress finds that (1) there is an increase of crimes of violence not only in urban, but also in suburban and rural areas; (2) the increase in crimes of violence is disproportionate to the increase in population; (3) the increase in crimes of violence increases the chances of a person becoming a victim of such a crime; (4) on an increasing basis crimes of violence are being directed at public safety officers, including policemen, firemen, and correctional guards; (5) law enforcement identification, apprehension and conviction of perpetrators of crimes of violence is decreasing; (6) the perpetrators of crimes of violence, when identified, apprehended, and convicted, are often not financially responsible; and (7) the victims of crimes of violence, their families and dependents, are often themselves unable to bear the consequent pecuniary losses without undue hardship.

It is, therefore, the purpose of this Act to commit the United States to meet its moral obligation to assist the innocent victims of violent crime, their families and dependents in financial need, by direct aid to those within the area primarily of Federal responsibility, by assistance to the States to aid those within the area primarily of State responsibility, by the establishment of insurance and benefit programs for public safety officers and their families and dependents, and by the strengthening of the civil remedies available to victims of racketeering

activity.

TITLE I—COMPENSATION FOR VICTIMS OF VIOLENT CRIME

DECLARATION OF PURPOSE

Sec. 101. It is the declared purpose of Congress in this title to promote the public welfare by establishing a means of meeting the financial needs of the innocent victims of violent crime, their families and dependents, and others acting to prevent the commission of crime or to assist in the apprehension of suspected criminals.

PART A-FEDERAL COMPENSATION PROGRAM

Sec. 102. The Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by—

(1) redesignating sections 451 through 455 respectively as sections 421

through 425;

(2) redesignating sections 501 through 521 respectively as sections 550 through 570;

(3) redesignating parts F, G, H, and I of title I respectively as parts

I, J, K, and L of title I; and

(4) adding at the end of part E of title I, as amended by this Act, the following new parts:

"PART F-FEDERAL COMPENSATION FOR VICTIMS OF VIOLENT CRIME

"DEFINITIONS

"Sec. 450. As used in this part—

"(1) 'Board' means the Violent Crimes Compensation Board established by this part;

"(2) 'Chairman' means the Chairman of the Violent Crimes Compensation

Board established by this part;

"(3) 'child' means an unmarried person who is under eighteen years of age and includes a stepchild or an adopted child, and illegitimate child, and student over eighteen years of age, and a child conceived prior to but born after the personal injury or death of the victim;

"(4) 'dependent' means a relative or other person who was wholly or partially dependent upon the income of the victim at the time of the personal

injury or death of the victim

"(5) 'Executive Secretary' means the Executive Secretary of the Violent Crimes Compensation Board established by this part;

"(6) 'General Counsel' means the General Counsel of the Violent Crimes

Compensation Commission established by this part;

"(7) 'guardian' means a person who is entitled by common law or legal appointment to care for and manage the person or property or both of a child or incompetent;

"(8) 'incompetent' means a person who is incapable of managing his own affairs, whether adjudicated or not:

"(9) 'personal injury' means actual bodily harm and includes pregnancy, mental distress, and nervous shock;

"(10) 'pecuniary loss' includes: "(A) for personal injury—

"(1) medical expenses (including psychiatric care);

"(2) hospital expenses;

"(3) loss of past earnings; and

"(4) loss of future earnings because of a disability resulting from the personal injury; and

"(B) for death-

"(1) funeral and burial expenses; and

"(2) loss of support to the dependents of the victim.

Pecuniary loss includes any other expenses actually and necessarily incurred as a result of the personal injury or death, but it does not include property damage.

"(11) 'relative' includes a spouse, parent, grandparent, stepfather, stepmother, child, grandchild, siblings of the whole or half blood, a spouse's par-

ents, a niece, or nephew;

"(12) 'student' means a person who is a 'student' as defined in subpara-

graph (17) of section 8101 of title 5 of the United States Code; and

"(13) 'victim' includes any person who is killed or injured as proximate cause of a criminal act committed or attempted against him enumerated in section 458 of this part or killed or injured while assisting a law enforcement officer to apprehend a person who has committed a crime or to prevent the commission of a crime.

"COMPENSATION BOARD

"Sec. 451. (a) There is hereby established a Board within the Department of Justice to be known as the Violent Crimes Compensation Board (hereinafter referred to as the "Board"). The Board shall be composed of three members to be appointed by the President, by and with the advice and consent of the Senate. The President shall designate one of the members of the Board as Chairman, who shall have been a member of the bar of a Federal court or of the highest court of a State for at least eight years.

"(b) There shall be appointed by the President, by and with the advice and consent of the Senate, an Executive Secretary and a General Counsel to perform such duties as the Board shall prescribe in accordance with the objectives of

this part.

"(c) No member of the Board shall engage in any other business, vocation,

or employment.

"(d) Except as provided in paragraph (1) of subsection (a) of section 456 of this part, the Chairman and one other member of the Board shall constitute a quorum. Where opinion is divided and only one other member is present, the opinion of the Chairman shall prevail.

"(e) The Board shall have an official seal.

"FUNCTIONS OF THE BOARD

"Sec. 452. In order to carry out the purposes of this part, the Board shall-

"(1) receive and process applications under the provisions of this part for compensation for personal injury or death resulting from criminal acts enumerated in section 458 of this part;
"(2) hold such hearings, sit and act at such times and places, and take

such testimony as the Board or any member thereof any deem advisable;

"(3) order the payment of compensation to victims and other beneficiaries in accordance with the provisions of this part; and

"(4) take such other action as it deems necessary and appropriate to carry out the purpose of this part.

"ADMINISTRATIVE PROVISIONS

"Sec. 453. (a) The Board is authorized in carrying out its functions under this part to— $\,$

"(1) appoint and fix the compensation of such personnel as the Board

deems necessary in accordance with the provisions of title 5 of the United

States Code:

"(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5 of the United States Code, but at rates not to exceed \$100 a day for individuals;

"(3) promulgate such rules and regulations as many be required to carry

out the provisions of this part;

"(4) appoint such advisory committees as the Board may determine to

be desirable to carry out the provisions of this part;

"(5) designate representatives to serve or assist on such advisory committees as the Board may determine to be necessary to maintain effective liaison with Federal agencies and with State and local agencies developing or carrying out policies or programs related to the provisions of this part; "(6) use the services, personnel, facilities, and information (including

"(6) use the services, personnel, facilities, and information (including suggestions, estimates, and statistics) of Federal agencies and those of State and local public agencies and private institutions, with or without reimburse-

ment therefor;

"(7) without regard to section 529 of title 31 of the United States Code to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its functions, with any public agency, or with any person, firm, association, corporation, or educational institution, and make grants to any public agency or private nonprofit organization;

"(8) request such information, data, and reports from any Federal agency as the Board may from time to time require and as may be produced con-

sistent with other law; and

"(9) arrange with the heads of other Federal agencies for the performance of any of its functions under this part with or without reimbursement and, with approval of the President, delegate and authorize the redelegation of any of his powers under this part.

"(b) Upon request made by the Board, each Federal agency is authorized and directed to make its services, equipment, personnel, facilities, and information (including suggestions, estimates, and statistics) available to the greatest prac-

ticable extent to the Board in the performance of its functions.

"(c) Each member of a committee appointed pursuant to paragraph (4) of subsection (a) of this section shall receive \$100 a day, including traveltime, for each day he is engaged in the actual performance of his duties as a member of a committee. Each such member shall also be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of his duties.

"TERMS OF BOARD MEMBERS

"Sec. 454. (a) The term of office of each member of the Board taking office after January 1, 1972, shall be eight years, except that (1) the terms of office of the members first taking office after January 1, 1972, shall expire as designated by the President at the time of appointment, one at the end of four years, one at the end of six years, and one at the end of eight years, after January 1, 1972; and (2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

"(b) Each member of the Board shall be eligible for reappointment.

"(c) Any member of the Board may be removed by the President for ineffi-

ciency, neglect of duty, or malfeasance in office.

"(d) All expenses of the Board, including all necessary travel and subsistence expenses of the Board outside the District of Columbia incurred by the members or employees of the Board under its orders, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the Executive Secretary, or his designee.

"PRINCIPAL OFFICE

"Sec. 455. (a) The principal office of the Board shall be in or near the District of Columbia, but the Board or any duly authorized representative may exercise any or all of its powers in any place.

"(b) The Board shall maintain an office for the service of process and papers

within the District of Columbia.

"PROCEDURES OF THE BOARD

"Sec. 456. (a) The Board-

"(1) may subpena and require production of documents in the manner of the Securities and Exchange Commission as provided in subsection (c) of section 18 of the Act of August 26, 1935, except that such subpena shall only be issued under the signature of the Chairman, and application to any court for aid in enforcing such subpena shall be made only by the Chairman, but a subpena may be served by any person designated by the Chairman;

"(2) may administer oaths, or affirmations, to witnesses appearing before the Board, receive in evidence any statement, document, information, or matter that may, in the opinion of the Board, contribute to its functions under this part, whether or not such statement, document, information.

or matter would be admissible in a court of law;

"(3) shall conduct hearings open to the public unless in a particlar case the Board determines that the hearing, or a portion thereof, should be held in private, having regard to the fact that the criminal has not been convicted or to the interest of the vicim of an alleged crime; and

"(4) may appoint an impartial licensed physician to examine any person making application under this part and order the payment of reasonable

fees for such examination.

"(b) The Board shall permit every person appearing under section 460 of this part to have the right to produce evidence and to cross-examine such wit-

nesses as may appear.

"(c) Where a person has been convicted of a crime giving rise to an application under this part, proof of the conviction shal be conclusive evidence that the crime was committed, unless an appeal of the conviction or a petition for a hearing or certiorari is pending or a new trial or rehearing has been ordered.

"(d) The Board shall be 'an agency of the United States' under subsection (1) of section 6001 of title 18 of the United States Code for the purpose of

granting immunity to witnesses.

- "Sec. 457. (a) In any case in which a person is injured or killed by any criminal act or omission of any other person enumerated in section 458 of this part, the Board may, in its discretion, upon an application, order the payment of, and pay, compensation in accordance with the provisions of this part, if such act or omission occurs—
 - "(1) within the 'special maritime and territorial jurisdiction of the United States' as defined in section 7 of title 18 of the United States Code; or

"(2) within the District of Columbia.

"(b) The Board may order the payment of compensation-

"(1) to or on behalf of the victim; or

"(2) in the case of the personal injury of the victim, where the compensation is for pecuniary loss suffered as a result of that personal injury by any person, to that person; or

"(3) in the case of the death of the victim, to or for the benefit of the dependent of the deceased victim, or any one or more of such dependents, or to any person who has suffered pecuniary loss as a result of that death.

"(c) In determining whether to order a payment under this section, the Board may consider any circumstances it determines to be relevant and the Board shall consider the behavior of the victim, and whether, because of provocation or otherwise, the victim bears any share of responsibility for the crime that caused his injury or death and the Board shall reduce the amount of compensation in accordance with its assessment of the degree of such responsibility attributable to the victim.

"(d) No order may be made under this section unless the Board, with or

without hearings, supported by substantial evidence finds that-

"(1) such an act or omission did occur; and

"(2) the injury or death was proximately caused by such act or omission.

"(e) An order may be made under this section whether or not any person is prosecuted or convicted of any crime arising out of such act or omission or if such act or omission is the subject of any other legal action. The Board may suspend proceedings in the interest of justice if a civil action arising from such act or omission is pending or imminent.

"CRIMES TO WHICH THIS PART APPLIES

"Sec. 458. (a) The Board may order the payment of, and pay, compensation for pecuniary loss in accordance with the provisions of this part for personal injury or death which resulted from crimes in the following categories-

"(1) aggravated assault;

"(2) arson;

"(3) assault; "(4) burglary;

"(5) forcible sodomy;

"(6) kidnaping;

"(7) manslaughter;

"(8) mayhem;

"(9) murder:

"(10) negligent homicide;

"(11) rape;

"(12) robbery;

"(13) riot;

"(14) unrawful sale or exchange of drugs;

"(15) unlawful use of explosives;

"(16) unlawful use of firearms;

"(17) any other crime involving the use of force, including poisoning. to the person; or

"(18) attempts to commit any of the foregoing."

"(b) For the purposes of this part, the operation of a motor vehicle, boat, or aircraft that results in an injury or death shall not constitute a crime, unless the injuries were intentionally inflicted through the use of such vehicle, boat, or aircraft.

"(c) For the purposes of this part, a person shall be deemed to have committed a criminal act or omission notwithstanding that by reason of age, insanity, drunkenness, or otherwise he was legally incapable of committing a crime.

"WHO MAY RECOVER LOSS

"Sec. 459. A person is entitled to make application for an order of compensation under this part if he is a victim, he was a person who was dependent on a victim at the time of the personal injury or death of the victim, or he suffered pecuniary loss as a result of the personal injury or death of the victim.

"APPLICATION FOR PAYMENT OF COMPENSATION

"Sec. 460. (a) In any case in which the person entitled to make an application is a child, or incompetent, the application may be made on his behalf by any person acting as his relative, guardian, or attorney.

"(b) Where an application is made to the Board under this part, the applicant, or his attorney, and any attorney of the Board, shall be entitled to appear and

be heard.

"(c) Any other person may appear and be heard who satisfies the Board that he has a substantial interest in the proceedings.

"ATTORNEY'S FEES

"Sec. 461. (a) The Board shall publish regulations providing that an attorney may, at the conclusion of proceedings under this part, file with the Board an appropriate statement for a fee in connection with services rendered in such proceedings.

"(b) After the fee statement is filed by an attorney under subsection (a) of this section, the Board shall award a fee to such attorney on the same terms and conditions as is provided for the payment of representation under section 3006A

of title 18 of the United States Code.

"(c) Any attorney who charges or collects for services rendered in connection with any proceedings under this part any fee in any amount in excess of that allowed under this section shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

"CHARACTER OF COMPENSATION

"Sec. 462. The Board may order the payment of compensation under this part for any pecuniary loss actually and necessarily incurred as a result of the personal injury or death of the victim.

"FINALITY OF DECISION

"Sec. 463. The orders and decisions of the Board shall be reviewable in the appropriate court of appeals, except that no trial de novo of the facts determined by the Board shall be allowed.

"LIMITATIONS UPON PAYMENT OF COMPENSATION

"Sec. 464. (a) No order for the payment of compensation shall be made under this part unless the Board finds that the applicant will suffer undue financial hardship from pecuniary loss incurred as a result of the injury or death of the victim if the order for the payment of compensation is not made. In determining undue financial hardship for the purposes of this subsection, the Board shall consider all of the financial resources of the applicant. The Board shall establish standards by rule for determining such undue financial hardship.

"(b) No order for the payment of compensation shall be made under this part unless the application has been made within one year after the date of the per-

sonal injury or death.

"(c) No order for the payment of compensation shall be made under this part unless the applicant has incurred a minimum pecuniary loss of \$100 or has lost

two continuous weeks' earnings or support.

"(d) The criminal or an accomplice of a criminal, a member of the family of the criminal, a person living in the household of the criminal, or a person maintaining sexual relations with the criminal shall not be eligible to receive components in with respect to a criminal shall not be eligible to receive components."

pensation with respect to a crime committed by the criminal.

"(e) No order for the payment of compensation under this part shall be made unless the act resulting in the personal injury or death for which the compensation is to be paid was reported to the law enforcement officials within seventy-two hours after its occurrence, unless the Board finds that the failure to report was justified by good cause.

"(f) The aggregate of orders for the payment of compensation under this part as the result of any one criminal act, omission, or occurrence shall not be in

excess of \$50,000.

"(g) The Board, upon finding that any applicant or beneficiary of any payment of compensation has not fully cooperated with all law enforcement agencies, may deny or withdraw any order of payment of compensation.

"TERMS AND PAYMENT OF THE ORDER OF COMPENSATION

"Sec. 465. (a) Except as otherwise provided in this section, any order for the payment of compensation under this part may be made on such terms and conditions as the Board deems necessary and appropriate to carry out the purposes of this part.

"(b) The Board shall deduct from any payments ordered under section 457 of

this part any payments received by applicant-

"(1) from the criminal or from any person on behalf of the criminal;

"(2) under insurance programs mandated by law;

"(3) from the United States, a State or any of its subdivisions, for a personal injury or death otherwise compensable under this part; and

"(4) under contract of insurance wherein the applicant is the insured

or beneficiary—

but only to the extent that the sum of such payments plus any payment ordered under this part would be in excess of the total compensable injuries suffered by the applicant as determined by the Board.

"(c) The Board shall pay to the person named in the order of payment of compensation the amount named therein in accordance with the provisions of

such order.

"(d) No order for the payment of compensation made under this part shall be subject to execution or attachment other than for expenses resulting from

the injury or death which is the basis for the application.

"(e) In the case of a payment for the benefit of a child or incompetent, the Board shall order the payee to file an accounting with the Board no later than January 31 of each year for the previous calendar year and to take such other action as the Board shall determine to be necessary and appropriate for the benefit of the child or incompetent.

"EMERGENCY AWARDS

"Sec. 466. (a) Whenever the Board determines, prior to taking action upon an application that—

"(1) such application is one with respect to which an order of payment will probably be made, and

"(2) undue hardship may result to the applicant if immediate payment

is not made.

the Board may order emergency payments to the applicant pending a final decision on the application.

"(b) The amount of any emergency payment ordered under subsection (a) of this section shall be deducted from the amount of any final order for the

payment of compensation made to the applicant.

"(c) Where the amount of any emergency payment ordered under subsection (a) of this section exceeds the amount of the final order for the payment of compensation, or if there is no order for the payment of compensation made, the recipient of any such emergency payment shall be liable for the repayment of such amount in accordance with rules and regulations prescribed by the Board. The Board may waive all or part of such repayment where in its judgment such repayment would involve severe financial hardship.

"RECOVERY FROM THE CRIMINAL

"Sec. 467. (a) Whenever any person is convicted of a crime and an order for the payment of compensation is or has been made under this part for a personal injury or death resulting from the act or omission constituting such crime, the Attorney General may, within one year from the date on which the judgment of conviction became final, institute an action against such person for the recovery of the whole or any specified part of such compensation in the district court of the United States for any judicial district in which such person resides or is found. Such court shall have jurisdiction to hear, determine, and render judgment in any such action. Any amounts recovered under this subsection shall be deposited in the Criminal Victim Indemnity Fund. If an amount greater than that paid pursuant to the order for payment of compensation is recovered and collected in any such action, the Board shall pay the balance to the applicant.

"(b) Process of the district court for any judicial district in any action under this section may be served in any judicial district of the United States by the United States marshal thereof. Whenever it appears to the court in which any action under this section is pending that other parties should be brought before the court in such action, the court may cause such other parties to be summoned

from any judicial district of the United States.

"(c) The Board shall provide to the Attorney General such information, data, and reports as the Attorney General may require to institute actions in accordance with this section.

"EFFECT ON CIVIL ACTIONS

"Sec. 468. An order for the payment of compensation under this part shall not affect the right of any person to recover damages from any other person by a civil action for the injury or death.

"INDEMNITY FUND

"Sec. 469. There is hereby created on the books of the Treasury of the United States a fund known as the Criminal Victim Indemnity Fund (hereinafter referred to as the 'fund'). The fund shall consist of such amounts as may be deposited in, or appropriated to such fund, as provided by law, or as may be contributed to such fund by public or private agencies or organizations or individuals.

"DUTY TO INFORM VICTIMS

"Sec. 470. (a) Each Federal law enforcement agency investigating a crime to which this part applies shall inform victims of their eligibility to make an application for an order of compensation under this part. Such agency shall provide forms (as prescribed by the Board) to each person who is eligible to file a claim pursuant to this part.

"(b) If a victim of a crime does not cooperate with a law enforcement agency in the identification, apprehension, and conviction of the perpetrator of the crime, any Federal law enforcement agency involved shall immediately notify

the Board of such lack of cooperation.

"REPORTS TO CONGRESS

"Sec. 471. The Board shall transmit to the Congress an annual report of its activities under this part, including the name of each applicant, a brief description of the facts in each case and the amount, if any, of compensation awarded."

COMPENSATION OF BOARD MEMBERS AND PERSONNEL

Sec. 103. (a) Section 5341 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(58) Chairman, Violent Crimes Compensation Board."

(b) Section 5315 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(95) Members, Violent Crimes Compensation Board."

(c) Section 5316 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraphs:

"(131) Executive Secretary, Violent Crimes Compensation Board. "(132) General Counsel, Violent Crimes Compensation Board."

SEC. 104. (a) Chapter 227 of title 18 of the United States Code is amended by adding at the end thereof the following new section:

"§ 3579. Fine imposed for Criminal Victim Indemnity Fund

"In any court of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, upon conviction of a person of a crime resulting in the personal injury or death of another person, the court shall take into consideration the financial conditions of such person, and may, in addition to any other penalty, order such person to pay a fine commensurate in amount with the personal injury or death of such other person and such fine shall be deposited into the Criminal Victim Indemnity Fund of the United States."

(b) The analysis of chapter 227 of title 18 of the United States Code is

amended by adding at the end thereof the following new item:

"3579. Fine imposed for Criminal Victim Indemnity Fund."

PART B-FEDERAL GRANT PROGRAM

Sec. 105. Subsection (b) of section 301 of part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by adding at the end thereof the following new paragraph:

"(10) The Federal share of the costs of State programs to compensate victims

of violent crime.'

Sec. 106. Section 303 of such Act is amended by inserting "(a)" immediately after "303" and by adding at the end thereof the following new subsections:

"(b) In the case of a State applying for the Federal share of costs of State programs to compensate victims of violent crime, the Administration shall make grants to a State only if, after consultation with the Violent Crimes Compensation Board, it determines, pursuant to criteria established under this title, that such State has enacted legislation of general applicability within such State—

"(1) establishing a State agency having the capacity to hear or determine applications based on financial need brought by or on behalf of the innocent victims of violent crime and others suffering pecuniary loss therefrom and

order the payment of such claims;

"(2) providing for the payment of compensation for pucuniary loss actually and necessarily incurred for personal injuries or death resulting from crimes in categories established pursuant to section 308 of this title, and

"(3) containing adequate provisions for the recovery compensation sub-

stantially similar to those contained in part F of this title.

"(c) Any State desiring to receive a grant under paragraph 10 of subsection (b) of section 301 of this title shall submit to the Administration a State plan. Each such plan shall—

"(1) provide that the program for which assistance under this title is sought will be administered by or under the supervision of a State agency;

"(2) set forth a program for the compensation of victims of violent crime which is consistent with the requirements set forth in subsection (b) of this section:

"(3) provide assurances that the State will pay from non-Federal sources

the remaining cost of such program;

"(4) provide that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State under this title;

"(5) provide that the State will submit to the Administration—

"(A) periodic reports evaluating the effectiveness of payments received under this title in carrying out the objectives of the compensation

program, and

"(B) such other reports as may be reasonably necessary to enable the Administration to perform its functions, including such reports as it may require to determine the amounts which local public agencies of that State are eligible to receive for any fiscal year, and assurances that such State will keep such records and afford such access thereto as the Administration may find necessary to assure the correctness and verification of such reports; and

"(6) contain other data and assurance as the Administration deems nec-

essary and appropriate.

"(d) The Administration shall approve a plan which meets the requirements specified in subsection (c) of this section and it shall not finally disapprove a plan except after reasonable notice and opportunity for a hearing to such State."

BASIC CRITERIA

Sec. 107. Part C of the Omnibus Crime Control and Safe Streets Act of 1968

is amended by adding at the end thereof the following new sections:

"Sec. 308. The Administration shall establish by regulation criteria to be applied under paragraph (10) of subsection (b) of section 301 of this title. In addition to other matters such criteria shall include standards for—

"(1) the persons who shall be eligible for compensation,

"(2) the categories of crimes for which compensation may be ordered,

"(3) the losses for which compensation may be ordered, and

"(4) such other terms and conditions for the payment of such compen-

sation as the Administration deems necessary and appropriate.

"Sec. 309. (a) The Administration shall pay in any fiscal year to each State which has a plan approved pursuant to this title for that fiscal year the Federal share of the cost of such plan as determined by it.

"(b) The Federal share of programs authorized by paragraph (10) of sec-

tion 301 of this title shall be 75 per centum for any fiscal year."

TITLE II—GROUP INSURANCE FOR PUBLIC SAFETY OFFICERS

INSURANCE PROGRAM AUTHORIZED

Sec. 201. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by this Act, is further amended by adding at the end thereof the following new part:

"PART G-PUBLIC SAFETY OFFICERS' GROUP LIFE INSURANCE

"DEFINITIONS

"Sec. 500. For the purposes of this part-

"(1) The term 'month' means a month which runs from a given day in one month to a day of the corresponding number in the next or specified succeeding month, except where the last month has not so many days, in which event it expires on the last day of the month.

"(2) The term 'full time' means such period or type of employment or duty as may be prescribed by regulation promulgated by the Attorney General.

"(3) The term 'public safety officer' means, pursuant to regulations issued by the Attorney General, an individual who is employed by a State or unit of local government—

"(A) primarily to patrol the highways or otherwise preserve order and

enforce the laws, or

"(B) in any activity pertaining to a correctional program, facility, or institution, or to a court having criminal jurisdiction, where the activity is determined by the Attorney General to be potentially dangerous because of contact with criminal suspects, defendants, prisoners, or parolees, or

"(C) in firefighting.

"(4) The term 'State' means any State of the United States, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

"(5) The term 'unit of local government' means any city, county, township, town, borough, parish, village, or other general purpose subdivision of a State, or any Indian tribe which the Secretary of the Interior determines performs public safety functions.

"ELIGIBLE INSURANCE COMPANIES

"Sec. 501. (a) The Attorney General is authorized, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), to purchase from one or more life insurance companies a policy or policies of group life insurance to provide the benefits provided under this part. Each such life insurance company must (1) be licensed to issue life, accidental death, and dismemberment insurance in each of the fifty States of the United States and in the District of Columbia, and (2) as of the most recent December 31 for which information is available to the Attorney General, have in effect at least 1 per centum of the total amount of group life insurance which all life insurance companies have in effect in the United States.

"(b) Any life insurance company issuing such a policy shall establish an administrative office at a place and under a name designated by the Attorney

General.

"(c) The Attorney General shall arrange with each life insurance company issuing any policy under this part to reinsure, under conditions approved by him, portions of the total amount of insurance under such policy with such other life insurance companies (which meet qualifying criteria set forth by the Attorney General) as may elect to participate in such reinsurance.

"(d) The Attorney General may at any time discontinue any policy which

he has purchased from any insurance company under this part.

"PERSONS INSURED; AMOUNT

"Sec. 502. (a) Any policy of insurance purchased by the Attorney General under this part shall automatically insure any public safety officer employed on a full-time basis by a State or unit of local government which has (1) applied to the Attorney General for participation in the insurance program under this part, and (2) agreed to deduct from such officer's pay the amount of the premium and forward such amount to the Department of Justice or such other agency or office as is designated by the Attorney General as the collection agency or office for such premiums. The insurance provided under this part shall take effect from the first day agreed upon by the Attorney General and the responsible official of the State or unit of local government making application for participation in the program as to public safety officers then on the payroll, and as to public safety officers thereafter entering on full-time duty from the first day of such duty. The insurance provided by this part shall so insure all such public safety officers unless any such officer elects in writing not to be insured under this part. If any such officer elects not to be insured under this part he may thereafter, if eligible, be insured under this part upon written application, proof of good health, and compliance with such other terms and conditions as may be prescribed by the Attorney General.

"(b) A public safety officer eligible for insurance under this part is entitled to be insured for an amount of group life insurance, plus an equal amount of group

accidental death and dismemberment insurance, in accordance with the following schedule:

"If annual pay is	; —	The amount insurance	
"Greater than—	But not greater than—	Life	Accidental death and dismem- berment
0		\$10,000	\$10,000
\$8,000		11, 000	11, 000
\$9,000		12,000	12, 000
\$10,000	11,000	13, 000	13, 000
\$11,000 \$12,000	12,000	14, 000	14,000
\$12,000	13, 000	15, C00	15, 000
\$13,000		16, 000	16, 000
\$14,000		17, 000	17, 000
\$15,000		18, 000	18, 000
\$16,000		19, 000	19, 000
\$17,000		20, 000	20, 000
\$18,000		21, 000	21, 000
\$19,000	41, 411	22, 000	22, 000
\$20,000 \$21,000	21,000	23, 000	23, 000
		24, 000	24, 000
\$22,000		25, 000	25, 00
\$23,000		26, 000	26, 00
\$24,000	25, 000	27, 000	27, 000
\$25,000 \$26,000	26, 000	28, 000	28, 000
VEO ,000		29, C00	29, 000
\$27,000		30,000	30, 000
\$28,000	29, 000	31, 000	31, 000
\$29,000		32, 000	32, 000

The amount of such insurance shall automatically increase at any time the amount of increases in the annual basic rate of pay places any such officer in a new pay bracket of the schedule.

"(c) Subject to the conditions and limitations approved by the Attorney General and which shall be included in the policy purchased by him, the group accidental death and dismemberment insurance shall provide for the following payments:

"Loss	Amount payable
For loss of life	Full amount shown in the schedule in subsec-
	tion (b) of this section.
Loss of one hand or of one foot or loss	One-half of the amount shown in the schedule
of sight of one eye.	in subsection (b) of this section.
Loss of two or more members or loss of	
sight in both eyes.	tion (b) of this section.

The aggregate amount of group accidental death and dismemberment insurance that may be paid in the case of any insured as the result of any one accident may not exceed the amount shown in the schedule in subsection (b) of this section.

"(d) The Attorney General shall prescribe regulations providing for the conversion of other than annual rates of pay to annual rates of pay and shall specify the types of pay included in annual pay.

"TERMINATION OF COVERAGE

"Sec. 503. Each policy purchased under this part shall contain a provision, in terms approved by the Attorney General, to the effect that any insurance thereunder on any public safety officer shall cease thirty-one days after (1) his separation or release from full-time duty as such an officer or (2) discontinuance of his pay as such an officer, whichever is earlier.

"CONVERSION

"Sec. 504. Each policy purchased under this part shall contain a provision for the conversion of such insurance effective the day following the date such insurance would cease as provided in section 503 of this part. During the period such insurance is in force the insured, upon request to the office established under section 3(b) of this part shall be furnished a list of life insurance companies

participating in the program established under this part and upon written application (within such period) to the participating company selected by the insured and payment of the required premiums be granted insurance without a medical examination on a permanent plan then currently written by such company which does not provide for the payment of any sum less than the face value thereof or for the payment of an additional amount of premiums if the insured engages in public safety activities. In addition to the life insurance companies participating in the program established under this part, such list shall include additional life nsurance companes (not so participating) which meet qualifying criteria, terms, and conditions established by the Attorney General and agree to sell insurance to any eligible insured in accordance with the provisions of this section.

"WITHHOLDING OF PREMIUMS FROM PAY

"Sec. 505. During any period in which a public safety officer is insured under a policy of insurance purchased by the Attorney General under this part, his employer shall withhold each month from his basic or other pay until separation or release from full-time duty as a public safety officer an amount determined by the Attorney General to be such officer's share of the cost of his group life insurance and accidental death and dismemberment insurance. Any such amount not withheld from the basic or other pay of such officer insured under this part while on full-time duty as a public safety officer, if not otherwise paid, shall be deducted from the proceeds of any insurance thereafter payable. The initial monthly amount determined by the Attorney General to be charged any public safety officer for each unit of insurance under this part may be continued from year to year, except that the Attorney General may redetermine such monthly amount from time to time in accordance with experience.

"SHARING OF COST OF INSURANCE

"Sec. 506. For each month any public safety officer is insured under this part the United States shall bear not to exceed one-third of the cost of such insurance or such lesser amount as may from time to time be determined by the President to be a practicable and equitable obligation of the United States in assisting the States and units of local government in recruiting and retaining personnel for their public safety forces.

"INVESTMENT; EXPENSES

"Sec. 507. (a) The amounts withheld from the basic or other pay of public safety officers as premiums for insurance under section 505 of this part and any sums contributed by the United States under section 506 of this part, together with the income derived from any dividends or premium rate readjustment from insurers shall be deposited to the credit of a revolving fund established in the Treasury of the United States. All premium payments on any insurance policy or policies purchased under this part and the administrative cost of the insurance program established by this part to the department or agency vested with the responsibility for its supervision shall be paid from the revolving fund.

"(b) The Attorney General is authorized to set aside out of the revolving fund such amounts as may be required to meet the administrative cost of the program to the department or agency or office designated by him, and all current premium payments on any policy purchased under this part. The Secretary of the Treasury is authorized to invest in and to sell and retire special interestbearing obligations of the United States for the account of the revolving fund. Such obligations issued for this purpose shall have maturities fixed with due regard for the need of the fund and shall bear interest at a rate equal to the average market yield (computed by the Secretary of the Treasury on the basis of market quotations as of the end of the calendar month next preceding the date of issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average market yield is not a multiple of one-eights of 1 per centum, the rate of interest of such obligation shall be the multiple of one-eighth of 1 per centum nearest market yield. The interest on and the proceeds from the sale of these obligations, and the income derived from dividends or premium rate adjustments from insurers, shall become a part of the revolving fund.

"BENEFICIARIES: PAYMENT OF INSURANCE

"Sec. 508. (a) Any amount of insurance in force under this part on any public safety officer or former public safety officer on the date of his death shall be paid, upon establishment of a valid claim therefor, to the person or persons surviving at the date of his death, in the following order of precedence:

"First, to the beneficiary or beneficiaries as the public safety officer or former public safety officer may have designated by a writing received in

his employer's office prior to his death;

"Second, if there be no such beneficiary, to the widow or widower of such officer or former officer;

"Third, if none of the above, to the child or children of such officer or

former officer and descendants of deceased children by representation; "Fourth, if none of the above, to the parents of such officer or former officer or the survivor of them;

"Fifth, if none of the above, to the duly appointed executor or administra-

tor of the estate of such officer or former officer;

"Sixth, if none of the above, to other next of kin of such officer or former officer entitled under the laws of domicile of such officer or former officer at

the time of his death.

"(b) If any person otherwise entitled to payment under this section does not make claim therefor within one year after the death of the public safety officer or former public safety officer, or if payment to such person within that period is prohibited by Federal statute or regulation, payment may be made in the order of precedence as if such person had predeceased such officer or former officer and any such payment shall be a bar to recovery by any other person.

"(c) If, within two years after the death of a public safety officer or former public safety officer, no claim for payment has been filed by any person entitled under the order of precedence set forth in this section, and neither the Attorney General nor the administrative office established by any insurance company pursuant to this part has received any notice that any such claim will be made, payment may be made to a claimant as may in the judgment of the Attorney General be equitably entitled thereto, and such payment shall be a bar to recovery by any other person. If, within four years after the death of the public safety officer or former public safety officer, payment has not been made pursuant to this part and no claim for payment by any person entitled under this part is pending, the amount payable shall escheat to the credit of the revolving fund referred to in section 507 of this part.

"(d) The public safety officer may elect settlement of insurance under this part either in a lump sum or in thirty-six equal monthly installments. If no such election is made by such officer the beneficiary may elect settlement either in a lump sum or in thirty-six equal monthly installments. If any such officer has elected settlement in a lump sum, the beneficiary may elect settlement in

thirty-six equal monthly installments.

"BASIC TABLES OF PREMIUMS; READJUSTMENT OF RATES

"Sec. 509. (a) Each policy or policies purchased under this part shall include for the first policy year a schedule of basic premium rates by age which the Attorney General shall have determined on a basis consistent with the lowest schedule of basic premium rates generally charged for new group life insurance policies issued to large employers, this schedule of basic premium rates by age to be applied, except as otherwise provided in this section, to the distribution by age of the amount of group life insurance and group accidental death and dismemberment insurance under the policy at its date of issue to determine an average basic premium per \$1,000 of insurance. Each policy so purchased shall also include provisions whereby the basic rates of premium determined for the first year shall be continued for subsequent policy years, except that they may be readjusted for any subsequent year, based on the experience under the policy, such readjustment to be made by the insurance company issuing the policy on a basis determined by the Attorney General in advance of such year to be consistent with the general practice of life insurance companies under policies of group life insurance and group accidental death and dismemberment insurance issued to large employers.

"(b) Each policy so purchased shall include a provision that, in the event the

Attorney General determines that ascertaining the actual age distribution of the amounts of group life insurance in force at the date of issue of the policy or at the end of the first or any subsequent year of insurance thereunder would not be possible except at a disproportionately high expense, the Attorney General may approve the determination of a tentative average group life premium, for the first or any subsequent policy year, in lieu of using the actual age distribution. Such tentative average premium rate shall be redetermined by the Attorney General during any policy year upon request by the insurance company issuing the policy, if experience indicates that the assumptions made in determining the tentative average premium rate for that policy year were incorrect.

"(c) Each policy so purchased shall contain a provision stipulating the maximum expense and risk charges for the first policy year, which charges shall have been determined by the Attorney General on a basis consistent with the general level of such charges made by life insurance companies under policies of group life insurance and group accidental death and dismemberment insurance issued to large employers. Such maximum charges shall be continued from year to year, except that the Attorney General may redetermine such maximum charges for any year either by agreement with the insurance company or companies issuing the policy or upon written notice given by the Attorney General to such companies at least one year in advance of the beginning of the year for which such

redetermined maximum charges will be effective.

(d) Each such policy shall provide for an accounting to the Attorney General not later than ninety days after the end of each policy year, which shall set forth, in a form approved by the Attorney General, (1) the amounts of premiums actually accrued under the policy from its date of issue to the end of such policy year, (2) the total of all mortality, dismemberment, and other claim charges incurred for that period, and (3) the amounts of the insurers' expense and risk charge for that period. Any excess of the total items (1) over the sum of items (2) and (3) shall be held by the insurance company issuing the policy as a special contingency reserve to be used by such insurance company for charges under such policy only, such reserve to bear interest at a rate to be determined in advance of each policy year by the insurance company issuing the policy, which rate shall be approved by the Attorney General as being consistent with the rates generally used by such company or companies for similar funds held under other group life insurance policies. If and when the Attorney General determines that such special contingency reserve has attained an amount estimated by the Attorney General to make satisfactory provision for adverse fluctuations in future charges under the policy, and further excess shall be deposited to the credit of the revolving funds established under this part. If and when such policy is discontinued, and if, after all charges have been made, there is any positive balance remaining in such special contingency reserve, such balance shall be deposited to the credit of the revolving fund, subject to the right of the insurance company issuing the policy to make such deposit in equal monthly installments over a period of not more than two years.

"BENEFIT CERTIFICATES

"Sec. 510. The Attorney General shall arrange to have each member insured under a policy purchased under this part receive a certificate setting forth the benefits to which the member is entitled thereunder, to whom such benefit shall be payable, to whom claims should be permitted, and summarizing the provisions of the policy principally affecting the member. Such certificate shall be in lieu of the certificate which the insurance company would otherwise be required to issue.

"FEDERAL ASSISTANCE TO STATES AND LOCALITIES FOR EXISTING GROUP LIFE INSURANCE PROGRAMS

"Sec. 511. (a) Any State or unit of local government having an existing program of group life insurance for public safety officers which desires to receive Federal assistance under the provisions of this section shall—

"(1) inform the public safety officers of the benefits and premium costs of both the Federal program and the State or unit of local government program, and of the intention of the State or unit of local government to apply

for the Federal assistance under this section; and

"(2) hold a referendum of public safety officers of the State or unit of

local government to determine whether such officers want to continue in the existing group life insurance program or apply for the Federal program under the provisions of this part.

The results of the referendum shall be binding on the State or unit of local

government.

"(b) If there is an affirmative vote of a majority of such officers to continue in such State or local program and the other requirements set forth in subsection (a) are met, a State or unit of local government may apply for Federal assistance for such program for group life insurance under such rules and regulations as the Attorney General may establish. Assistance under this section shall not exceed three-fourths of the Federal contribution which would otherwise have been available under section 506 of this part, and shall be reduced to the extent that the Attorney General determines that the existing program of any State or unit of local government does not give as complete coverage as the Federal program. Assistance under this section shall be used to reduce proportionately the premiums paid by the State or the unit of local government and by the appropriate public safety officers under such existing program.

"ADMINISTRATION

"Sec. 512. (a) The Attorney General may delegate any of his functions under this part, except the making of regulations, to any officer or employee of the

Department of Justice.

(b) In administering the provisions of this part, the Attorney General is authorized to utilize the services and facilities of any agency of the Federal Government or a State government or a company from which insurance is purchased under this part, in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may be agreed upon.

"(c) Until specific appropriations are made for carrying out the purposes of this part, any appropriation made to the Department of Justice or the Law Enforcement Assistance Administration for grants, activities or contracts shall, in the discretion of the Attorney General, be available for payments of obligations

arising under this part.

"ADVISORY COUNCIL ON PUBLIC SAFETY OFFICERS' GROUP LIFE INSURANCE

"Sec. 513. There is hereby established an Advisory Council on Public Safety Officers' Group Life Insurance consisting of the Attorney General as Chairman, the Secretary of the Treasury, the Secretary of Health, Education, and Welfare, and the Director of the Office of Management and Budget, each of whom shall serve without additional compensation. The Council shall meet once a year, or oftener, at the call of the Attorney General, and shall review the administration of this part and advise the Attorney General on matters of policy relating to his activities thereunder. In addition, the Attorney General may solicit advice and recommendations from any State or unit of local government participating in the public safety officers' group life insurance program.

"JURISDICTION OF COURTS

"Sec. 514. The district courts of the United States shall have original jurisdiction of any civil action or claim against the United States founded upon this part.

"PREMIUM PAYMENTS ON BEHALF OF PUBLIC SAFETY OFFICERS

"Sec. 515. Nothing in this part shall be construed to preclude any State or unit of local government from making payments on behalf of public safety officers of the premiums required to be paid by them for any group life insurance program authorized by this part or any such program carried out by a State or unit of local government."

TITLE III—DEATH AND DISABILITY BENEFITS FOR PUBLIC SAFETY OFFICERS

DECLARATION OF PURPOSE

Sec. 301. It is the purpose of this title to promote the public welfare by establishing a Federal minimum death and dismemberment benefit to public safety officers, their families, and dependents.

Sec. 302. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by this Act, is further amended by adding at the end thereof the following new part:

"PART II-DEATH AND DISABILITY BENEFITS FOR PUBLIC SAFETY OFFICERS

"DEFINITIONS

"Sec. 525. As used in this part-

"(1) 'child' means an unmarried person who is under eighteen years of age and includes a stepchild or an adopted child, and illegitimate child, and student over eighteen years of age, and a child conceived prior to but born after the personal injury or death of the victim;

'(2) 'dependent' means a relative or other person who was wholly or partially dependent upon the income of the victim at the time of the personal

injury or death of the victim;
"(3) 'public safety officer' means, pursuant to regulations issued by the Administration, a person who is employed by a State or unit of general local government in any activity pertaining to-

"(A) the enforcement of the criminal laws, crime prevention, control

or reduction, including highway patrol,

"(B) a correctional program, facility or institution.

"(C) a court having crime jurisdiction, where the activity is determined by the Administration to be potentially dangerous because of contact with criminal suspects, defendants, prisoners, or parolees, or

(D) firefighting, done voluntarily or otherwise, with or without com-

pensation:

"(4) 'relative' includes a spouse, parent, grandparent, stepfather, stepmother, child, grandchild, silblings of the whole or half blood, a spouse's parents, a niece or nephew; and

"(5) 'student' means a person who is a 'student' as defined in paragraph

(17) of section 8101 of title 5 of the United States Code.

"DEATH AND DISABILITY BENEFITS FOR PUBLIC SAFETY OFFICERS

"Sec. 526. (a) Under regulations issued by the Administration under part I of this title, upon certification to the Administration by the Governor of any State that a public safety officer employed on a full- or part-time basis has been killed or disabled as the result of a criminal act in the line of duty, the Administration shall pay a benefit as provided in subsection (d) of section 527 of this part in the following order of precedence:

"(1) If the public safety officer was disabled, to the public safety officer. "(2) If the public safety officer was killed and there is no spouse, to the

dependent or dependents in equal shares.

"(3) If the public safety officer was killed and there are both a spouse and one or more dependents, one-half to the spouse and one-half to the de-

pendents in equal shares.

"(b) The benefit payable to any person under this part is in addition to any benefits to which he may be entitled under any other law other than compensation for pecuniary loss made pursuant to part F of this title or a State program established under paragraph (10) of section 301 of part C of this title.

"(c) The benefit payable to any person under this part may be made in a lump sum, in such equal monthly installments, or in such other fashion as the

Administration determines will be appropriate.

'(d) No award made pursuant to this part shall be subject to execution or attachment other than for pecuniary loss resulting from the injury or death whigh is the basis for the certification.

"AWARDS

"Sec. 527. (a) Whenever the Administration determines, prior to acting upon a certification that—such certification is one with respect to which a benefit will probably be made, the Administration may make interim benefit payments to the public safety officer, spouse, or dependents pending a final certification of the Governor.

"(b) The amount of any interim benefit paid under subsection (a) shall be deducted from the amount of any final benefit paid to the public safety officer,

spouse, or dependent.

"(c) Where the amount of any interim benefit paid under subsection (a) exceeds the amount of the final benefit, or if there is no final benefit paid, the recipient

of any such interim benefit shall be liable for repayment of such amount in accordance with rules and regulations prescribed by the Administration. The Administration may waive all or part of such repayment where in its judgment such repayment would invoke severe hardship.

"(d) Subject to conditions and limitations as he may establish, the Administra-

tion shall provide for the following payments:

"Loss	Amount payable
Death	\$50,000
Loss of one hand or of one foot or loss of sight of one eye	25, 000
Loss of two or more members or loss of sight in both eyes	50, 000

"AMENDMENT TO THE INTERNAL REVENUE CODE OF 1954

"Sec. 528. Section 101(b)(2)(A) of the Internal Revenue Code of 1954 (relating to death benefits excluded from gross income) is amended to read as follows:

"(A) \$5,000 LIMITATION.—The aggregate amounts excludable under paragraph (1) with respect to the death of any employee shall not exceed \$5,000, except that not to exceed \$50,000 shall be excludable under the provisions of part L of the Omnibus Crime Control and Safe Streets Act of 1968, as amended."

TITLE IV—CIVIL REMEDIES FOR VICTIMS OF RACKETEERING ACTIVITY

PURPOSE

Sec. 401. It is the purpose of this title to promote the general welfare by strengthening the civil remedies available to the victim of racketeering activity.

EXPANDED JURISDICTION

Sec. 402. (a) Section 1964 of title 18 of the United States Code is amended by-

(1) inserting in subsection (a) ", without regard to the amount in controversy," immediately after "jurisdiction."

(2) inserting in subsection (b) "subsection (a) of" after "under" each

time it appears;

(3) striking out in subsection (b) "action" and inserting in lieu thereof "proceedings"; and

(4) striking subsections (c) and (d) thereof in their entirety and in-

serting in lieu thereof the following:

"(c) Any person may institute proceedings under subsection (a) of this section. In any proceeding brought by any person under subsection (a) of this section, relief shall be granted in conformity with the principles which govern the granting of injunctive relief from threatened loss or damage in other cases. Upon the execution of proper bond against damages for an injunction improvidently granted and showing of immediate danger or irreparable loss or damage, a pre-liminary injunction may be issued in any action before a determination thereof upon its merits.

"(d) Whenever the United States is injured in its business or property by reason of any violation of section 1962 of this chapter, the Attorney General may bring a civil action in a district court of the United States, without regard to the amount in controversy, and shall recover the actual damages sustained by

it, and the cost of the action.

"(e) Any person who is injured in his business or property by reason of any violation of section 1962 of this chapter may bring a civil action in a district court of the United States, without regard to the amount in controversy, and shall recover threefold the actual damages sustained by him, and the cost of the action, including a reasonable attorney's fee.

"(f) The Attorney General may upon timely application intervene in any civil acteion or proceeding brought under this chapter, if the Attorney General certifies that in his opinion the case is of general public importance. In such action or proceeding, the United States shall be entitled to the same relief as if

it had instituted the action or proceeding.

"(g) A final judgment or decree rendered in favor of the United States in any criminal or civil action or proceeding under this chapter shall estop the defendant in any subsequent civil proceeding as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto.

"(h) Except as hereinafter provided, any civil action under this section shall be barred unless it is commenced within five years after the cause of action accrued. Whenever any civil or criminal action or proceeding, other than an action under subsection (d) of this section, is brought or intervened in by the United States to prevent, restrain, or punish any violation of section 1962 of this chapter the running of the period of limitations prescribed by this subsection with respect to any cause of action arising under subsections (c) and (e) of this section, which is based in whole or in part on any matter complained of in such action or proceeding by the United States, shall be suspended during the pendency of such action or proceeding by the United States and for two years thereafter."

(b) Section 1965 of title 18 of the United States Code is amended by—

(1) striking out in subsection (b) "action under section 1964 of" and inserting in lieu thereof "civil action or proceeding under";

(2) striking out in subsection (c) "instituted by the United States"; and (3) inserting in subsection (d) "civil or criminal" immediately before

"action".

(c) Section 1966 of title 18 of the United States Code is amended by striking "any civil action instituted under this chapter by the United States" in the first sentence and inserting in lieu thereof "any civil action or proceeding under this chapter in which the United States is a part".

(d) Section 1967 of title 18 of the United States Code is amended by striking

"instituted by the United States".

(e) Section 1968 of title 18 of the United States Code is amended by-

(1) striking out "prior to the institution of a civil or criminal proceeding" in the first sentence of subsection (a) and inserting in lieu thereof "before he institutes or intervenes in a civil or criminal action or proceeding";

(2) striking out "case" the first time it appears and inserting in lieu thereof "civil or criminal action" in paragraph (4) of subsection (f) and striking out "case" each time it appears thereafter and inserting in lieu thereof "action";

(3) striking out "case" each time it appears in paragraph (5) of subsec-

tion (f) and inserting in lieu thereof "action"; and

(4) striking out "case" and inserting in lieu thereof "action" in paragraph (6) of subsection (f).

TITLE V-MISCELLANEOUS PROVISIONS

REPEALS

Sec. 501. (a) Section 4-531 of the District of Columbia Code is hereby repealed.

(b) Subchapter III of chapter 81 of title 5 of the United States Code is

hereby repealed.

(c) The provisions of subsections (a) and (b) of this section shall have no effect on benefits, awards, or gratuities made or already being made prior to the date of enactment of this Act.

AUTHORIZATIONS OF APPROPRIATIONS

Sec. 502. Section 569 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended and as redesignated by this Act, is amended by inserting immediately after "569" "(a)" and by adding at the end thereof the following new subsections:

"(b) There is authorized to be appropriated for the fiscal year ending

June 30, 1973-

"(1) \$10,000,000 for the purposes of part F;

"(2) \$20,000,000 for the purposes of paragraph (10) of subsection (b) of section 301 of part C.

"(c) There are authorized to appropriated such sums as may be necessary

to carry out the provisions of part G.

"(d) There are authorized to appropriated \$40,000,000 for the fiscal year ending June 30, 1972, and \$20,000,000, for the fiscal year ending June 30, 1973. for the purposes of part H.".

SEVERABILITY

Sec. 503. If the provisions of any part of this Act are found invalid or any amendments made thereby or the application thereof to any person or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATES

Sec. 504. (a) Title I of this Act shall become effective one hundred and eighty days after the date of enactment of this Act.

(b) (1) Title II of this Act shall become effective on the date of enactment

of this Act.

(2) The insurance provided for under title II of this Act shall be placed in effect for the public safety officers of any State or unit of local government participating in the public safety officers' group life insurance program on a date mutually agreeable to the Attorney General, the insurer or insurers, and the participating State or unit of local government.

(c) (1) Title III of this Act shall became effective with respect to any disability or death of a public officer as defined in paragraph (5) of section 525 of part II of title I of the Omnibus Crime Control and Safe Streets Act of

1968, as amended by this Act, on or after January 1, 1967.

(2) Any amount already paid to a public officer, spouse, or dependent as defined in paragraphs (3) and (5) of section 525 of part II of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by this Act, pursuant to Federal law for the disablement or death of such public safety officer shall be deducted from any benefit paid under title III of this Act.

[From the Sunday Star, Washington, D.C., June 13, 1971]

NOT EVEN THE STATIONHOUSE IS SAFE FOR POLICE THESE DAYS

(By Frank Murray, Star Staff Writer)

The demonology of celluloid gangsters in the Bogart-Cagney era had a special place for the rule: "Never kill a cop." Even facing the real-life underworld, the police officer usually felt immune from attack.

The theory was that other policemen, enraged at the killing of a man with the badge, put on heat so intense the mob can't make a dishonest living. In the movies, even the robbers and grafters would ignore the other key rule in the so-called underworld code and turn in the cop-killer.

If he survived the attentions of the police who arrested and questioned him,

the killer then would surely be executed.

In the last few years, something has changed. Police officers are being shot, stabbed, bitten, stoned and beaten with a frequency that horrifies them and worries government officials as high as the White House. In 1969, the last full year tallied by the FBI, 35,202 police officers were assaulted in the United States and 11,949 of those attacks injured the policeman.

The number of killings is soaring, too. One hundred policemen were slain in the United States during 1970, compared with 86 a year earlier and 64 in 1968. This year the pace of killings is even higher, with 52 men killed through the first

week of June.

Four of the police killings in the first five months of 1971 occurred here in Washington, compared to three District of Columbia officers killed in the two preceding

years.

Most frightening to the police is the rise of a new phenomenon—ambushes and apparently unprovoked murders of officers while they are on routine patrol or even inside police stations. In 1970 there were 24 such cases—more than double the 1969 figure and four times that of 1968. In the entire 10 years before 1970, only 43 officers were killed in unprovoked attacks, including those by the mentally deranged.

More common situations were involved in most of the 561 police slayings by felons in the 10 years from 1960 to 1969. Of that number, 322 were killed by a person they were trying to arrest, 107 were involved in disturbance calls such as family quarrels and a "man with a gun," 36 were killed while working with prisoners, and 53 while investigating suspicious persons or circumstances.

"SECURE" JOBS

The names on two particular graves personify to police the threat they face, even while working at presumably safe stationhouses surrounded by fellow of-

ficers: Sgt. Frank Von Coll
n of Philadelphia and Sgt. Brian McDonald of San Francisco.

At 10:44 p.m. on Monday, Feb. 16, 1970, a time bomb exploded on the outside window ledge of a San Francisco precinct house in Golden Gate Park. Two officers in the parking lot and seven inside were injured by the blast, one of them Sgt. McDonald, who died after surgery. Sixteen months later, there have been no arrests.

It was in another park substation—the Cobbs Creek Guard House in West Philadelphia—that Sgt. Von Colln was killed on Aug. 29 in a much more personal attack that police said was part of a diabolic, complicated plan. Von Colln and two patrolmen were in the park building when they heard shots nearby. The two patrolmen ran outside and found two other officers had been attacked by a gunman; one was shot in the face.

A suspect was captured and higher police officials summoned by radio. Shortly afterward, one of the officials, Capt. Edward Cantwell, went into the Guard House and found Sgt. Von Colln dead on the floor behind the desk, blood puddling under his arm. Von Colln had been shot five times in the chest and heart from close range as he sat at the desk, unarmed because his gun was locked in a cabinet according to regulations.

Filled with caution now, police searched further. Outside the station they found a stolen Army fragmentation hand grenade, set to be triggered by string trips stretched between trees, according to Inspector Robert Wolfinger.

Within two days, five persons were arrested and charged with murder, includ-

ing the man caught at the scene, Hugh S. Williams.

"This suspect, Hugh Williams, gave a statement to police stating that he and five others had conspired to take part in these shootings," Wolfinger later told the Senate Internal Security subcommittee investigating police attacks. "Williams stated that all of the men involved were members of the Black Unity Council and that they had been planning since March 1970 to blow up a police installation and to kill some 'pigs.'"

A search for the reasons behind the trend in killings divides the police community. Like Wolfinger, such spokesmen as Los Angeles Police Chief E. M. Davis and John Harrington, president of the Fraternal Order of Police, blame the upsurge in attacks on organized. Communist-devised tactics of revolution. Oakland Police Chief Charles R. Gain, whose headquarters twice has been bombed and who had one policeman slain by a Black Panther, says more study is needed.

"If we focus upon only one causative factor, it is my policemen and it is the policemen within the many cities of this country who may suffer because of our blindness," Gain told Sen. Strom Thurmond, R-S.C., during an Internal Security subcommittee hearing at which Thurmond pressed Gain to confirm the senator's view that a centralized plot is afoot.

Of course, it makes little difference to the policeman who is killed or wounded

what the political motives of the person pulling the trigger might be.

It is a fact that in fatal attacks guns are almost always the weapon, sometimes the policeman's own gun. "During the period 1960–69, firearms were used by felons to commit 96 percent of the police killings. Of this group 78 percent of the weapons were handguns." according to the 1970 report on Crime in the United States, issued by the FBI.

The FBI statistical division, headed by Jerry Daunt, obtains a police report on every death and gets additional information through a questionnaire sent to the police department. This is their breakdown on weapons used to kill police from

1960 to 1969:

Handguns	417
Shotguns	68
Rifles	53
Knives	4
Hands, feet	7
Clubs, autos, etc	12

In one of those miscellaneous cases, an officer was killed with a shovel. Two policemen were run down intentionally with automobiles.

The statistics reflect little of the physical pain or psychological strain that has put many officers on the defensive. "Police officers live, they cry, and they bleed, and they are capable of emotions, and they can become angry," said James T. McGuire, superintendent of the Illinois State Police. "Very few people in our na-

tion comprehend what is happening. They would much rather hide their heads in the sand and hope this is a short-term problem that will shortly dissipate and go away."

REACTION

McGuire said: "With each terror attack, it is becoming more and more difficult to control and prevent God-fearing, well-disciplined, trained police officers from reacting."

Some evidence that McGuire is right may be found in a resolution passed last summer by the convention of the International Conference of Police Associations,

which Executive Director Royce Givens said represents 150,000 officers.

"All officers representing the International Conference of Police Associations will stand together in an all-out retaliation against these senseless killings if it is in the form of on-the-street justice against those persons organized, or otherwise, who injure or kill police officers or we will collectively recommend to all our representative members that they withhold their services until that necessary, definite, positive and tangible government, judicial and public support is forth-coming," the resolution said. Putting it more bluntly, that is a threat of death against those who police think are responsible or a strike.

The most common complaint of police spokesmen is that justice is uncertain and slow—a far cry from those days when the electric chair certainly would follow the killing of a policeman. Some states which have dropped the death penalty keep it on the books for killers of police, but no one has been executed in the United States for any crime in more than four years. The police complain of Supreme Court decisions that dismiss a voluntary confession because no lawyer was present or that declare evidence inadmissible if it is obtained by illegal search. They say the decisions fail to consider the fact that no matter how the evidence was obtained it proves the defendants are guilty and they are being freed

Death sentences occasionally are ordered. Aaron Mitchell was sentenced to the gas chamber four years after killing an officer in California. Stanley Hoss of Pittsburgh was sentenced to the electric chair. Fred Ahmed Evans killed three policemen in Cleveland in 1968 and was sentenced to die, but his codefendant, Donald Lathan, got 100 years.

In Washington, Billie Austin Bryant was sentenced to a double life sentence for the killings of two FBI agents. In four local police cases from 1967 to 1969 in the District, all defendants were convicted of second-degree murder and got sentences ranging from six to 24 years for two men, 15 to life for the other two. There are no national figures available on convictions and sentences of persons charged with killing policemen. However, suspects are being arrested. For the decade of the 1960s, in the 561 police slayings, 96.4 percent of the cases were "solved" within 30 days of the officer's death. In this usage, "solved" means the suspect is identified and is no longer at large.

In the 561 slayings from 1960 to 1969, the number of killers and accomplices

involved was 741, the FBI said.

"Eighty-seven were killed at the scene of the crime or soon thereafter by other officers, 19 committed suicide shortly after the police murder, and four died from other reasons while in custody," the FBI analyst said.

COMPOSITES

A composite picture of the police killer, according to the statistics, shows that he is a man, probably in his mid-20s, with a prior arrest for a crime of violence and, in one of four cases on probation or parole. The youngest killer was 13, the oldest 82. Fifty of the killers were juveniles and only one was a woman, acting alone.

The average policeman killed is young, with six years or less on the job, working alone in a patrol car at night and making an unassisted arrest. Friday and Saturday have been the worst nights, but in 1969 Sunday night became the one on which most officers were killed—20. More killings occur between 11 p.m. and midnight than any other one-hour period.

But statistics can be misleading, and averages are the worst type of statistic. What did they mean to Patrolman Larry D. Minard at 2:10 a.m. on Monday,

Aug. 17 of last year? He had been on the Omaha Police Department for seven

Three minutes earlier a man had called headquarters and said a woman was screaming at 2867 Ohio St. in Omaha. Several rapes had occurred in the area so the dispatcher sent four cars. Eight officers went inside the house to search, with their flashlights. All of them stepped over a two-suiter suitcase lying inside the front door, all except Minard.

He moved it with his foot, perhaps kicked it. Three sticks of dynamite inside. exploded. A clothespin triggering device was wired to the dynamite, a wedge keeping the points of the clothespin from touching. A string was attached to the wedge, run through a hole drilled in the suitcase and thumbtacked to the floor. When the suitcase moved, the string pulled the wedge out and the tips of the clothespin completed the electrical circuit, setting off the bomb.

When the dust and smoke cleared, only seven of the officers still could be seen. Minard was missing. Patrolman James Sledge and Patrolman John K. Toay

looked for Minard.

"Toay lifted up a big piece of plywood and found Minard's body there. He said his leg was blown off, and he could see through his eye socket to the floor so there was no hope for him," Sledge said.

Said Toay later: "We go in there to help some body and they kill us. Isn't that

something? They call us to help somebody and the building blows up.'

THREE CONVICTED

Three men identified by Omaha police as b'ack mi'itants, who had been traveling with other groups in Des Moines and San Francisco, were charged with murder. All three were convicted after a long trial. Two adults, David Rice and Edward Poindexter, are serving life. The third, a juvenile, was sent to reform school until he is 20.

The ambushes—in which the killers call the police with a false alarm—are happening all over the country, many times resulting only in woundings. The most recent such killings were the night of Friday, April 2, in Riverside, Calif. Patrolman Paul Teel and Leonard Christiansen were sent to investigate a reported burglary and were both killed by shotgun fire when they arrived. Later, people at the location said there had been no burglary and no report to police.

One man is charged with the murders.

Although no one was killed, an ambush plot in Memphis, Tenn, on Saturday, Aug. 24, 1968, in which two policemen were shot, gives insight into the technique because of a thorough investigation by police and a lengthy confession by

one of the five persons convicted of the shootings.

A patrol car was sent to 270 W. Davant St. to check a disturbance which had been reported by telephone to police. People at that address said no one had called. Meanwhile, a second police car was pulling in to back up the first two officers and both the driver, Sgt. Jackie D. Moore, 37, and his partner, Patrolman Robert James Waddell, 23, were shot in the legs. Waddell is permanently disabled.

One of the plotters, Ben Heard Berry, 18, later sat with his attorney and told the whole story. He said the shooting was in retaliation for the arrest on disorderly conduct charges early that Saturday of John Ferguson, 20, a black man. The arrest triggered a riot situation in Memphis, according to Police Chief Harry

Lux.

A police officer is questioning Berry:

"When were the plans made to shoot these officers or any officers?"

Q. "When were the plans made to shoot these officers A. "They were made after they arrested John Ferguson."

Q. "Were they made because of the arrest of John Ferguson?" A. "Yes."

Q. "Where were the plans made for this ambush?"

A. "The initial plans?"

A. "They were made up right after the arrest. What was to happen was brought up after the arrest. The plans were made on the way to the ambush.

Berry said they heard of the arrest at a clubhouse of a group called The Invaders and then went to his apartment.

Q. "And what did you do there?"

A. "There we picked up some firearms, rifles."

Q. "How many rifles did you pick up?"

A. "We got three."

Later, said Berry, they also got a pistol and picked a spot in South Memphis, which they felt was an appropriate place to avenge Ferguson.

Q."Relate as best you can the conversation that took place as to the parts (each

assailant would play)?"

A. "It was understood that Gloria would make the phone call to police headquarters."

Q. "What was the call to consist of?" A. "It was just to get the officers to the scene; that there was a fight or something to direct some patrolmen, or her son came home drunk or something."
Q. "Were your plans to ambush a squad car directed to a certain individual

or just was it any squad car or individual that would come along?"

A. "Any squad car."

GETAWAY CAR

Berry said the four men waited on a railroad embankment overlooking the address and the girl called police.

The first police car to arrive was not shot at because, Berry said, the girl had

not returned from making the call. She had the getaway car.

When Lt. Moore swung his car onto West Davant Street all four men fired one shot each. The police car sped away immediately to avoid remaining a target. "Everyone thought it was a miss so we just left," said Berry. They ran to the

car and threw the weapons into the trunk.

It is these very types of cases that make the police believe in a plot, the kind of cases that make an officer think twice before responding to a call that may be real, where someone may need his help.

They also complain that the public will not help them if they become trapped

or injured. But most of all they complain about the courts.

Charles A. O'Brien, chief deputy attorney general of California, was asked

what he thought would stop the assaults and killing of police.

"Much swifter justice, much more quickly bringing the man to face the consequences of his act," O'Brien said. "At the present time, the complications that we have in what I call legal ping-pong between the state and federal courts result in disproportionately long periods of time before the person who committed the act is made to face the consequences of it."

John Harrington of the Fraternal Order of Police echoed O'Brien's words

and said:

"The technicalities which make a criminal trial a matter of months, or even years, must be eliminated. Over the years, in the name of protecting constitutional rights, the courts have handed down a steady series of decisions which have shielded and encouraged the criminal. . . . Today in almost every large city, the threat of assassination hangs every day over the men charged with enforcement of the law."

RECORDS GAP

Cases of assaults on police often are handled routinely in the courts and by the press. In the last six months of 1970, for instance, approximately 18,000 police officers were assaulted in the United States, but a police association attempt to collect every press report on such incidents turned up mention of 1,031 non-fatal attacks. Many cities, including Washington, D.C., do not keep such records separately and cannot supply the figures on request.

St. Louis Police Chief Eugene J. Camp made a special survey of every arrest in his city of a person charged with attacking a policeman between 1968 and late 1970, showing dispositions in the courts—material not included in most

other compilations.

The St. Louis figures show that 49 persons were charged with injuring police officers. Eight of the cases were dropped and defendants were found not guilty in three others. Of the 38 persons convicted, 33 went to jail—16 for one year or more, but none for more than three years. Four were fined, from \$150 to \$500, and one was placed on probation.

In California a study of the 1,101 prosecutions on police assault cases in 1968 showed that 92 percent resulted in convictions. However, in Los Angeles County only 14 percent of those convicted received felony sentences, compared with 42 percent elsewhere in the state.

What is being done about all of this? Aside from growing resentment by police,

apparently, very little is being done.

In Cincinnati, where 94 policemen were assaulted last year, the biggest outrage followed the shooting of one officer who was sitting alone in his police car, parked for the moment and not working on any case. Wives of the policemen met and served notice that they would try to have their husbands resign from the department unless a second man was assigned immediately to each patrol car. The city gave in.

In Los Angeles the city spends \$3 million a year just to provide security and

guards at police stations and court buildings.

After two policemen were killed May 21 in New York, while leaving an assistance call in a Harlem apartment, and a Washington policeman was shot to death trying to stop the escape of two holdup men. President Nixon moved to focus attention on the issue. He called a meeting at the White House with Atty. Gen. John Mitchell, FBI Director J. Edgar Hoover and police representatives. However, the intended goal of publicizing the President's interest was submerged in the press by a flap over who had been invited to the session.

FEDERAL ROLE

Later, Mitchell told newsmen the administration would not back efforts in the House and Senate to have the FBI take jurisdiction in police killings. He noted that the police are doing well enough in solving these cases already. He said federal agencies would continue to assist when requested, as with laboratory work.

"There will be provided to the Congress legislation recommending that, in the case of a death of any police officer or law enforcement officer, that there be paid a \$50,000 grant for the benefit of the survivors of that particular officer," Mitchell said. The legislation was filed by the Justice Department on Friday.

Whether with or without administration backing, the Internal Security subcommittee of the Senate Judiciary Committee intends to hold hearings again this year on three bills. All three are carryovers from the last session, when they were not reported out, even though one is sponsored by Sen. James O. Eastland, D-Miss., chairman of the subcommittee.

Eastland's bill would add to the law making presidential assassinations a federal offense a section extending the same protections to police officers and

firemen.

Sen. Harrison A. Williams Jr., D-N.J., proposed a bill making unlawful flight to avoid prosecution for killing a policeman or fireman a federal offense, a questionable distinction from the present law under which it is illegal to cross state lines in flight from prosecution on any crime. Sen. Richard S. Schweiker, R-Pa., has proposed a measure to extend the regulation of interstate commerce to anyone traveling or using interstate communications or transportation facilities in connection with assaults on police, firemen or judges in their official capacities.

Several police organizations, including the New York City Patrolmen's Benevolent Association, representing 32,000 police officers, and the International Brotherhood of Police Officers are on record: No matter who has jurisdiction,

the penalty for killing a policeman should surely be death.

During the Senate hearings last October, one witness who was in the minority was Mrs. Winifred Canright, a member of the New Jersey Friends Council, who made a long statement in which she said: "Brutality inevitably produces hate. Hate produces violence. Retaliation for police brutality may be long delayed, but under stress, repressed anger may cause what seems to be an unprovoked attack on police. The lives of police officers would be safer if they could eliminate grounds for suspicion of police brutality."

No one else at the hearings put the blame on the police, but many shared the view, in almost the same words, as that of Sen. Williams in telling why the ques-

tion is important:

"Every time a policeman . . . is killed, a part of our system of law dies with

Senator HRUSKA. I have no opening statement at this time except the formal remarks that I will submit for the record, Mr. Chairman, thus saving the time of our witnesses and also of the committee

It is very gratifying that we are making progress in the consideration of this bill. We have needed this type of provision for a very long time. The Chairman of this subcommittee has been active in this field in a number of ways and the bills proposed by him, some of

which have been enacted, indicate this interest.

It pleases me very much that he undertook to introduce this bill which I cosponsored and support. It will give substance to the idea that we are backing in ways other than rhetoric those who do go out in the field as law enforcement officers and who are threatened with maining or death as the case may be in far too great numbers.

I will submit for the record the balance of my statement which contains some figures and some statistics and other information.

Senator McClellan. Very well, Senator. Your statement will be received and printed in the record.

(The statement of Senator Hruska in full follows:)

STATEMENT AT THE OPENING OF HEARINGS OF THE CRIMINAL LAWS SUBCOMMITTEE ON S. 2087, A BILL TO PROVIDE BENEFITS TO SURVIVORS OF POLICE OFFICERS KILLED IN THE LINE OF DUTY

Mr. Chairman, several months ago you and I at the request of the Attorney General joined to introduce a bill, S. 2087, to provide benefits to survivors of police officers killed in the line of duty. These hearings are called to consider the merits of this proposal. We are fortunate to have as witnesses this morning the Deputy Attorney General and representatives of other law enforcement groups. I look forward to hearing their views on this bill.

During 1970, 100 law enforcement officers were killed by felonious criminal action. This is a 16 percent increase over the previous year and brings the total number of officers killed during the past decade to 633. Already in 1971 the number of policemen killed exceeds that for the first nine months of 1970 and it appears that 1971 unfortunately will set a new record for law enforcement officers

slain in the line of duty.

Local and State officials are doing all that they are able to see that the perpetrators of these vicious acts are swiftly and firmly made to answer for their crimes. The Department of Justice, when requested, assists in the investigation of a slaying of a police officer to the fullest extent of its resources. This is the limit of federal assistance which is appropriate considering the federal

nature of law enforcement responsibilities.

There is, however, one additional means available to the federal government to demonstrate its concern and compassion in these cases. That is the purpose behind this bill. S. 2087 would authorize the payment from the Treasury of \$50,000 to the families of policemen slain in the line of duty, thus providing a federal floor to the amount of benefits payable. This proposal is consistent with P.L. 91-509 enacted last year, which provides a similar benefit for survivors of District of Columbia policemen.

It was this sentiment that prompted me to introduce this bill last June. I know that your feelings were similar. Thank you for your courtesy in permitting

me to make these remarks.

Senator McClellan. We are very pleased indeed to welcome Deputy Attorney General Richard G. Kleindienst this morning who is accompanied by Mr. Clarence Coster, associate administrator of the Law Enforcement Assistance Administration of the Department of Justice.

Gentlemen, we welcome you. We are glad to have you.

STATEMENT OF RICHARD G. KLEINDIENST, DEPUTY ATTORNEY GENERAL, DEPARTMENT OF JUSTICE, ACCOMPANIED BY CLARENCE COSTER, ASSOCIATE ADMINISTRATOR OF THE LAW ENFORCEMENT ASSISTANCE ADMINISTRATION OF THE DEPARTMENT OF JUSTICE, AND WALLACE JOHNSON, ASSOCIATE DEPUTY ATTORNEY GENERAL FOR LEGISLATION

Mr. Kleindienst. Thank you, Mr. Chairman and Senator Hruska on behalf of Mr. Coster, Mr. Johnson, and myself.

Senator McClellan. You have another witness present with you.

Would you identify him?

Mr. KLEINDIENST. Mr. Johnson, Associate Deputy Attorney General for Legislation.

Senator McClellan. I am sorry we didn't recognize him.

Mr. Kleindienst. We are pleased to be here today to testify on S. 2087, a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of police

officers who are killed in the line of duty.

Specifically, the proposed legislation before you would provide a \$50,000 benefit to the spouse, dependent children or dependent parents of any full-time police officer employed by any State, or unit of general local government within a State, to enforce the criminal laws,

who dies in the performance of his official duties.

The Law Enforcement Assistance Administration would be responsible for administering the provision and would make payments from funds appropriated for that purpose. The gratuity would be paid upon certification by the State's Governor that the officer was, in fact, killed while fulfilling his official responsibilities. This payment would serve as a Federal floor for survivors benefits and would be in addition to any other State or local benefits due the family; as well as, any Federal benefits due the family; as well as, any Federal benefits due survivors of State or local officers killed while enforcing Federal laws.

President Nixon made the decision to seek this benefit for the wives, husbands, dependent children, and parents of these dedicated public servants after consulting with representatives of law enforcement

groups from all sections of the Nation.

The administration believes such a payment is warranted for several reasons. First of all, is the fact that police officers throughout the country are facing a rising tide of violence. This alarming trend can only be reversed by profesisonal police officers who are assured that they and their families will be compensated in a manner commensurate with the risks inherent in law enforcement.

In addition, it is recognized that there is a need for a minimum death benefit that is not tied into State or local compensation programs. Some States, in fact, have no such programs. We believe that \$50,000 is the minimum that each officer's family should receive, and such a

payment would provide a Federal floor.

Senator McClellan. What we are undertaking to recognize is that the Federal Government also has some obligation in this field and to that extent it is honoring its obligation by providing, irrespective of any other law officer benefits that a policeman might be entitled to for

his family, that the Federal Government would pay \$50,000 as a minimum.

Mr. Kleindenst. That is correct, sir. Moreover, there are several precedents for establishing such a benefit. These precedents suggest that the theory of providing Federal financial support to local police officers has already been accepted. The task before us is to insure that the benefits are applied to all those who deserve them, rather than just to certain officers who happen to qualify because of special circumstances.

I would like now to discuss each of the above reasons in detail.

I believe that the subcommittee would be interested in some of the grim facts that show conclusively that police officers are in increasing

danger of their lives and well-being.

So far this year at least 83 police officers have been murdered while performing their duty. This figure includes the tragic slaying of a U.S. marshal in Washington, D.C., over the past weekend whose said funeral it was my privilege to attend yesterday. During 1970, 100 law enforcement officers were slain. This was a 16-percent increase over 1969, when 86 officers were murdered.

In the 10-year period, 1961 to 1970, 633 law enforcement officers have been slain. An additional 391 officers died in the line of duty through other causes during that same period. That amounts to 1,024 deaths during the past decade, or more than 100 officers on the average every

year.

Senator McClellan. This bill would not include compensation for the 391 that is referred to here?

Mr. KLEINDIENST. No, it would not.

Senator McClellan. For only those who had died by violence or by a criminal act?

Mr. Kleindienst. No, it would include an officer who lost his life

in the course of the performance of his duties, Senator.

Senator McClellan. The additional 391 officers died in line of duty, didn't they, or through other causes? Suppose they died from disease? Mr. Kleindenst. Well, it would not include that.

Senator McClellan. That is what I am trying to determine; I am

trying to make a differentiation here.

Mr. Kleindienst. It would not include a person who died of natural causes.

Senator McClellan. Only those who are killed or met death in the line of duty?

Mr. Kleindienst. Yes, sir.

In the 10-year period, 1961 to 1970, 633 law enforcement officers have been slain. An additional 391 officers died in the line of duty through other causes during that same period. That amounts to 1,024 deaths during the past decade, or more than 100 officers on the average every year.

Senator McClellan. How many of the perpetrators of the crime

were convicted?

Mr. Kleindienst. I don't have the actual conviction figures, Senator, because many of the trials are still either in progress or in preparation for trial.

Senator McClellan. I would like to have those figures if you can

get them.

Mr. Kleindenst. We can get those figures as they exist right now. Senator McClellan. I think we would like to have that for the record and some indication of the average sentence that they received for these coldblooded murders.

Mr. KLEINDIENST. That will be done if possible. [No additional information was submitted.]

Senator McClellan. In all of these instances I would like to know exactly what price we put on the law officer's life, what price the law-less criminal pays who goes out and shoots down a policeman, whether we coddle him and give him 2 or 3 years and then let him out of prison, letting him free to commit another murder. I think it would help this record if you would give us some information about the facts along that line.

Mr. Kleindienst. Yes, sir. In addition to that, Senator, the significant fact there was that 96 percent of these police killings have resulted in arrests as a result of State and local enforcement efforts, which I think is quite a tribute to the State and local efforts in this

Senator McClellan. Yes, it is. I suppose those in which there were no arrests made were where the murders were committed from ambush and there were no direct clues as to who committed the crime.

Mr. Kleindienst. Well, perhaps the 4 percent that have not resulted

in arrests were.

Senator McClellan. I assume though that in cases where they had no direct clues, they must have been committed from ambush or something.

Mr. Kleindienst. Yes, sir.

Senator Hruska. Will the chairman yield?

Senator McClellan. Yes, sir.

Senator Hruska. Mr. Chairman, I understand the figures you are asking for and the information has to do with the treatment of those who actually have been convicted. Regarding that, I wonder if we could put in the record at this point a paragraph from the Uniform Crime Report entitled "Criminal Offenders." It is found starting on page 48 and it says among other things—and I won't read it all—but the thing that caught my attention is the statement that 71 percent of the persons apprehended in police killing cases had prior arrests for criminal charges; 57 percent had been convicted of prior criminal offenses; 38 percent had prior arrests for crimes of violence; and 67 percent of those who had been previously convicted on criminal charges had been granted leniency in the form of parole or probation. In fact, 23 percent of the offenders were on parole or probation when they were involved with the murder of an officer.

I think those are significant figures, Mr. Chairman, because we cannot think of law enforcement simply in terms of police officers. Effective law enforcement has to carry through all of the way to sentencing

and imprisonment and parole.

Everyone of these who already had a conviction was illegally possessing a gun separate and apart from the provisions specifically directed to that under the Gun Control Act of 1968 to the effect they were prohibited from carrying a gun by virtue of their conviction. Yet they had a gun and they used it fatally on victims who had on blue uniforms.

Senator McClellan. I think if you will examine the report further, you may find additional material and I would like to have you and our counsel here examine that material and insert in the record that part that is pertinent to this particular question that has been raised.

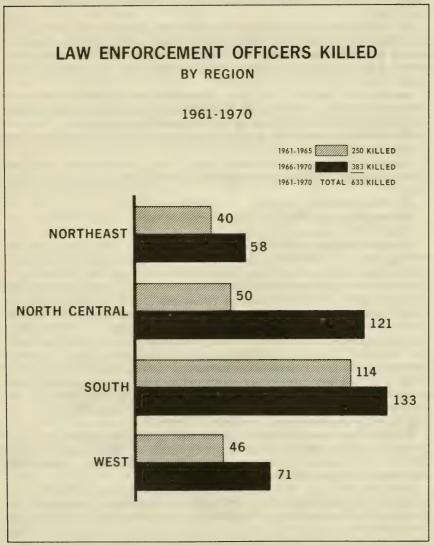
If you will, you may amplify it by any additional information or comments that you think would be helpful to us and that would por-

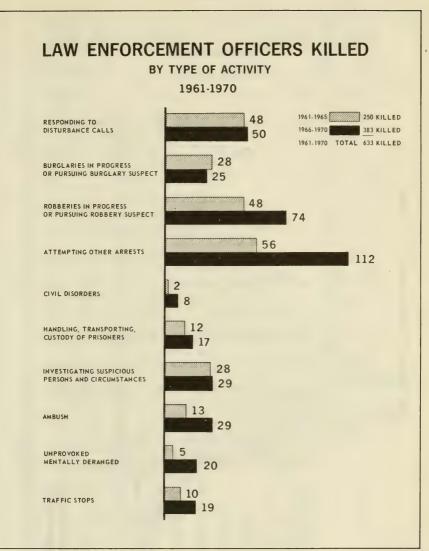
tray the picture as it is.

(The following was subsequently submitted for the record:)

EXCERPTS, UNIFORM CRIME REPORTS-1970, FEDERAL BUREAU OF INVESTIGATION

Chart 23





FBI CHART

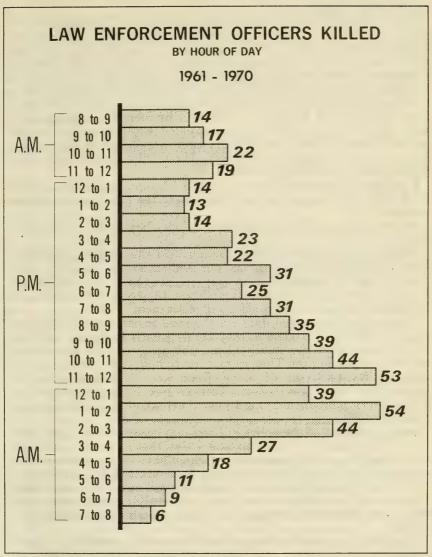
Profile of Victim Officers

Law enforcement officers	1961–65	1966-70	1961-70
Median age	32	30	31
Most common age	28	24	25
Percent White	94	86	89
Percent Negro	5	13	10
Percent Other race	1	1	1
Median years of service	5	5	5
Percent with 1 year or less service	10	15	13
Percent with 5 years or less service	46	47	47
Percent over 10 years of service	32	28	29

LAW ENFORCEMENT OFFICERS KILLED—TYPE OF ACTIVITY, 1961-1970

									Type of a	Type of assignment							
			2-man cars	cars		I-man cars	cars			Foot Patrol	atrol		Detectiv	ve and sp	Detective and special assignment	nment	
Type of activity		Total			Alone	ne	Assisted	peq	Alone	ne	Assisted	per	Alone	ne	Assisted	ted	Off
			8 a.m.	4 p.m.	4 p.m 8 a.m.	8 a.m 4 p.m.	4 p.m 8 a.m.	8 a.m	4 p.m 8 a.m.	8 a.m 4 p.m.	4 p.m 8 a.m.	8 a.m 4 p.m.	4 p.m 8 a.m.	8 a.m	4 p.m 8 a.m.	8 a.m	
Responding to "disturbance"	1961-65.	88	21	60	4	29	œ		63	:	1		23	:	co.	:	1
calls (family quarrels, man	1966-70	98	12	2	1	4	6		63				-		4	~	23
with gun).	Percent change	4. 2	c	-	o		0		-				- 67	-	63	1	:
burglaries in progress of pursuing burglary suspects.		25 25	n 10		01		1 01			: :			1		(3)	- 23	-
		-10.7							(,	c	1
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Attempting other arrests	1961-66	99	13	2	13	IO I	10	:	en :	:		-	61 6		- C	70 H	e c
(excludes traffic stops).	1966-70	112	33	20	91	-	~	;3	2	:	-		0	-	77	0	0
Civil disorders (mass	1961–65	2 2	1		:		:			:		-	:		1	:	:
disobedience, riot, etc.).	1966-70	90	1				:	1	-	:	1			:	45		:
	:hange	+300.0															
Handling, transporting, custody	1961-65.	12	4		9		:		1	:	:			:		-	
of prisoners.	1966-70.	17	2	7	2	-	-		:	:	:	:	•	:			•
Investigating enemicians persons	1981-85	28	oc		oc	ce	2		-		1		-	1	2		-
and circumstances.	1966-70	8	000		12	63							-	:	2		60
	Percent change	+3.6	Ī														
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without warning or	1966-70	62	12	-	-	:	-	7	:		-		2		2	:	,
provocation.)	Percent change	+123.1	÷						-						1		
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Traffic stops	. 1961–66	10			6	-	: :			:	:		1	Ī		:	
	1966-70.	19	9	-	10	ī	-			:						:	
	r electic change	1 30.0	-				1			-		-		-		-	1
Total	1961-66	250	20	7	89	14	R	1	14	2	9	1	6	4	17	L- !	17
	1966-70	383	98	8	89	23	6%	00	10	:	4	:	16	-	19	15	9
	Percent change	+63.2				-	:	:									
									1				8	,	00	8	2
Total number of officers killed 1961-70	1961-70	633	166	37	126	98	25	o,	22	24	10	_	18	0	8	77	
The state of the s	the barries of the same and on Administration on when you would not the same and th	-							-								

The total number and percent distribution of total on duty officers who were killed while alone during shifts covering the night time (4 p.m.-8 a.m.) are as follows: (1) 1-man car, 12h, or 21 percent. (2) foot parcent, and (3) detective or special assignment, 28, or 6 percent.



FBI CHART

You may proceed, sir.

Mr. KLEINDIENST. The FBI, which has investigated the circumstances under which police officers are murdered, has said that the threat of death is present even during the most routine law enforcement assignments.

That is all too true. Just last August 29, Sgt. John V. Young was sitting at the duty desk in a San Francisco police station when two men burst in and fired a fusillade of shotgun blasts, killing the 45-year-old officer and wounding a 30-year-old woman dispatcher. Ser-

geant Young was the third policeman killed so far this year in the San Francisco area.

Other officers are killed doing work that is inherently dangerous even though to them it is just part of the job. During 1970, for example, 37 officers were killed while attempting to make arrests for crimes other than robbery and burglary. Another 19 officers were slain by felons encountered during the commission of a robbery or being pursued as robbery suspects. Five more officers were killed at a burglary scene or while chasing burglary suspects. During 1970, 19 officers were slain from ambush, and four more were slain by mentally deranged persons. Another seven officers were murdered while investigating suspicious persons or incidents, and six more were killed while responding to reports of fights or disputes. Three officers were slain while transporting or watching prisoners.

Last year, 10 policemen were slain in Chicago, and seven in New York City. California was the State where the most police murders

occurred—20.

So far this year, 10 policemen already have been slain in New York

City.

During the 5 years from 1966 through 1970, the median age of murdered policemen was 30 years and the median length of service was 5 years. About 28 percent of these men had 10 or more years of service. About 86 percent were white police officers, 13 percent were black, and

the remaining 1 percent were officers of other races.

Police officers on patrol duty are the most exposed to the threat of being killed. This is obvious as they are frequently in contact with suspicious persons, and are readily identifiable as lawmen because of their uniforms or patrol cars. They cannot easily hide their presence or official capacity. Last year, 64 patrol officers were slain. Another 24 officers murdered were detectives or officers on special assignments, and 12 were off-duty policemen trying to make arrests or take other law enforcement action.

Seventy percent of the police killings that occurred during the past decade took place between 4 p.m. and 4 a.m., that is, usually under the cover of darkness. Of those killings which have been solved—and 96 percent of the decade's police murders have resulted in arrests—some 71 percent of the offenders had prior criminal arrest records. About 38 percent of the offenders had been previously arrested for violent crimes, such as murder, rape, armed robbery, aggravated assault, and the like.

Of the 391 lawmen who died in line of duty as the result of accidents during the past decade, automobile mishaps claimed 204 lives; 79 officers were killed in motorcycle incidents; and 42 died in accidents while they were directing traffic or were investigating another accident. Causes of the remaining deaths included firearms accidents, and helicopter crashes.

In recent years, the threat to policemen from a number of militant groups also has grown in marked ways, as I am sure you are all too

well aware.

Despite all of these hazards, many States and communities have failed to give death benefits to the victims' survivors. As of October 1970, there were 18 States that provided no financial assistance to the immediate survivors of law-enforcement men and women. Moreover, many small cities and towns throughout the land do not provide such benefits, or make only minimal compensation payments compared to that provided by large municipalities.

Even in those States that have compensation programs, there are wide gaps between the various plans, and an individual officer may

or may not be covered by one or the other of them.

Workmen's compensation programs are spotty. Many local law enforcement officers are not covered for one reason or another. In many instances where they are eligible, the payments to their families are only minimal.

What is needed is a minimum payment that assures substantial

benefits to the families of all law officers.

As I noted earlier, there are also certain precedents for this death-

benefit proposal.

Congress has already taken similar action by authorizing a payment of \$50,000 to survivors of police and other public safety officers killed in the line of duty here in the District of Columbia.

Also, Public Law 90-291, which became effective in April 1968, amended the Federal Employees Compensation Act (5 U.S.C. 8191) to provide for Federal benefits to survivors of local police officers killed while enforcing a Federal law or guarding a Federal prisoner.

Finally, the law enforcement assistance program itself provides a precedent for assisting individual police officers. While not heretofore encompassing death benefits or compensation, the program does include other benefits. The law enforcement education program, through which law enforcement officers are afforded the opportunity to enhance their careers by formal education, is a prime example of such benefits.

To conclude, then, law enforcement careers must be made more acceptable and attractive to our qualified citizens. We cannot ask decent, hardworking men to go out into the night and face the constant risk of murder and mayhem time after time and then ignore their rightful request that their families be protected from financial calamity.

I also would like to call your attention to the decision of the Committee on Police Casualties which considered the problem for 2 days at the Attorney General's Conference on Crime Reduction here in Wash-

ington, September 9 and 10.

The committee, which was chaired by Chief Jerry V. Wilson, of the Metropolitan Police Department, announced its support of the pending legislation for police survivors benefits after once again pointing out the great need for such protection.

We believe the proposal is eminently justified for the reasons cited,

and respectfully request its passage.

Senator McClellan. Thank you very much.

Mr. Coster and Mr. Johnson, do you have any comments you would like to make?

Mr. Kleindienst. They are here to answer questions if the commit-

tee desires to question them.

Senator McClellan. Would this bill as drafted—and I believe we introduced it just as it was sent to us—cover the death of a prison guard?

Mr. Kleindienst. No; it would not. I believe that thoughtful con-

sideration should be given to it, so that it would, because a prison guard is in contact with the violent element on the same basis as a police officer.

Senator McClellan. And he is steadily employed, I mean, it is his

business and profession just like the police officer's.

Mr. Kleindienst. I am glad you asked that question, Mr. Chairman, because the administration feels that the bill should be amended so that it would include prison guards.

Senator McClellan. And that would be an amendment the Depart-

ment would approve?

Mr. KLEINDIENST. Yes, sir; and the administration.

Senator McClellan. You might wish to draft such an amendment. We'll be glad to receive it. You might have your staff, working with counsel here draft that and let us have the amendment.

(The following letter was subsequently received:)

Office of the Deputy Attorney General, Washington, D.C., November 4, 1971.

Hon. JOHN L. McCLELLAN,

Chairman, Subcommittee on Criminal Laws and Procedures, Committee on the Judiciary, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: You will recall that at the hearing on the proposed Police Officers Benefits Act of 1971 (S. 2087) on September 29, 1971, you asked us to draft an amendment to the bill to make it applicable to prison guards killed in the line of duty.

A proposed amendment to S. 2087 is attached. We suggest the use of the term "correctional officer" to cover personnel employed as guards in prisons and other correctional facilities, since it is the term used for such guards by the U.S. Bureau of Prisons. It is intended to include wardens and other officers, but not employees whose duties do not involve primarily the guarding of inmates. We urge its favorable consideration.

The Office of Management and Budget has advised that enactment of S. 2087, amended as suggested above, is in accord with the Program of the President.

Sincerely,

RICHARD G. KLEINDIENST, Deputy Attorney General.

Proposed Amendment to S. 2087

On page 1, amend the third line of the title to read: "and correctional officers killed in the line of duty".

On page 1, line 3, insert between "Police" and "Officers": "and correctional". On page 1, line 8, insert between "Police" and "Officers": "and correctional".

On page 2, line 4, add after "laws": ", or that a correctional officer employed in a correctional institution or facility on a full-time basis by such State or unit, whose duties are primarily the guarding of individuals suspected or convicted of criminal offenses,"

Mr. Kleindienst. Yes, sir.

Senator McClellan. You spoke about the 96 percent figure of solved murders and 4 percent that were unsolved. I wonder if the local officials had any investigative assistance from the Federal Government in those cases. Are FBI men assigned to those cases where a local law enforcement official is killed?

Mr. KLEINDIENST. The President has directed the Director of the FBI to be available to assist local law enforcement officials with respect to its resources and as an aid in the investigation of any of these crimes. And I know that has been of great help. However, I still think that it is a great tribute to our State and local enforcement

agencies for the major role they played regarding that 96 percent figure.

Senator McClellan. Any questions, Senator?

Senator Hruska. Yes, I have some. You have referred in your statement to the State Workmen's Compensation Act, group life insurance and retirement plans and other benefits that are provided other than

the benefits that would be provided in this particular bill.

I imagine that you have developed an analysis in detail than you have furnished in your statement about the State Workmen's Compensation Act and other benefits which may be payable in these cases. If that is true, would you furnish it for the record so that we may place it in the record at this point and have the benefit of that analysis and that description?

Mr. KLEINDIENST. We shall if we have it, Senator.

(No data was subsequently received.)

Senator Hruska. You have indicated that the benefits provided, for example, under workmen's compensation are rather spotty, and they certainly are. And they are subject to the same standards of strict proof of death while engaged in the duty for which they are employed and many other technicalities.

Could you give us an analysis of those categories? It would be help-

ful.

Now, you also made reference to Public Law 90-291 which was introduced by the chairman of this subcommittee and which was enacted 3 years ago. Would you have available any details or any experience that has been gained in the intervening time as to how that act has worked and the extent to which it has been resorted to?

Mr. Kleindienst. We have some data on it, Senator. But since it has been a relatively short time since its enactment, we have only a little data. But we'll make available for the record whatever data we

have.

(See infra p. 117.)

Senator Hruska. That law is administered by the Labor Department?

Mr. Kleindienst. Yes, sir.

Senator Hruska. Perhaps we can coordinate this request with one to the Labor Department for the same type of desired information.

Mr. Kleindienst. We'll be happy to get that material also.

Senator HRUSKA. Would there be any merit to a proposal that a reward provision containing a substantial dollar amount be added to this bill to obtain information leading to the arrest and conviction of a killer of a policeman?

Mr. Kleindienst. Well, I think it is a subject matter which would suggest certain advantages, but my own personal opinion, although I haven't fully thought through the problem Senators, would be to dis-

courage that kind of aid to law enforcement.

I am not prepared to reject it out of hand, nor to accept it. I think it creates some problems with respect to law enforcement as far as the role of the citizen is concerned, but I do think it is worthy of some consideration.

Senator Hruska. Some questions have been raised concerning the wisdom of this approach: One is that a payment such as this should

be on a case-by-case basis; two, that it is better administered on a local basis rather than from a Federal level with blanket coverage. Would

you have any comment on that?

Mr. Kleindienst. I just haven't thought that through. Some of the problems of course pertain to the credibility of the offered evidence and the temptation to take advantage of a reward in evaluating the actual contribution to the prosecution and the conviction of the criminal. I would just like to say to the Senator, that although I had the subject matter broached to me, I am not really prepared as a result of thoughtful analysis to have an opinion.

Senator Hruska. This bill would be an extension of the principle which is embodied in Public Law 90-291: That an administrative determination of eligibility under the bill and payment of the benefits.

Now, there have been alternatives proposed, for example, a national workmen's compensation act, group life insurance contracts and ideas of that nature. What are the principle reasons that convince you that

this approach is perhaps a little bit better than the others?

Mr. Kleindienst. I think the best justification for it is the directness and ease of administration and the efficiency of administration. We leave it to the Governor of a State to make a certification. I think that our Governors would be careful in their administrative determinations. Once you have that made, you won't have a widow or a child waiting around for administrative proceedings, evidentiary hearings, and such, to receive the benefits and payments that this bill is designed to give.

Unlike many other federally administered programs, because of the small class to which this would apply, I think that ease, directness, and efficiency of administration is one of the best arguments for it.

Senator Hruska. It would cut down considerably on the red tape and a good deal of the overhead?

Mr. Kleindienst. Yes, there is practically no overhead. Senator Hruska. The cost of administration would be minimal? Mr. Kleindienst. I think the cost to the Law Enforcement Assistance Administration would be nominal. All they would have to have would be a certification by the State's Governor that the death came within the confines of the bill. Congress would appropriate the money. They would have it on hand and they could almost forthwith send it.

Senator Hruska. And the money which otherwise would be taken

for administration would be used for the benefits?

Mr. Kleindienst. I think it would discourage lawsuits. I think the intended beneficiary would get all of the money and that you would discourage delay.

I think that efficiency is encouraged by virtue of the relatively small

class of people to which the bill would apply.

Senator Hruska. Well, we hope we receive the report from the Labor Department soon on the 1968 law so that we get some indication of how it has actually worked in those instances where it has been used. Maybe those figures will be further corroboration of the wisdom of this choice as opposed to other methods of administrating the program. (See p. 117.)

That is all of the questions I have for the present time, Mr. Chair-

man.

Senator McClellan. Senator Kennedy?

Senator Kennedy. Thank you very much, Mr. Chairman.

I must apologize for not being present when you made your statement, but I will have a chance to read it and I appreciate your pres-

ence here today, Mr. Kleindienst.

As you know, this has been an area of interest to me for some period of time. As a matter of fact, as you are probably aware, I introduced a police insurance bill as far back as 1967 and I have introduced it subsequently each Congress since because, as you have pointed out in your testimony and as I think is apparent to those who have considered this problem, it is extremely difficult if not impossible in many instances for police officers to obtain life insurance.

A great number of police officials in my own State of Massachusetts with the exception perhaps of the State Police, now have only about \$2,000 coverage. Obviously, for individuals asked to perform so haz-

ardous a job, this is not a great deal of security.

Fortunately in our State we have developed the One Hundred Club in which each individual contributes \$100 a year, and at the death of a police officer the pool of money is used to help to defray the mortgage payments and the educational costs of the children of those who are lost in the line of duty. So we have introduced legislation which I hope will be successful. Last year it passed the Senate but died in conference. At the conference the House Members wanted to have an opportunity to review it and subsequently, as you are aware, Mr. Celler introduced the bill in the House this year. I have introduced it again in the Senate. The chairman, I understand, indicated it would have an opportunity to be considered very soon.

One point about the police insurance bill is that it is legislation not only for those that are actually killed but also those seriously hurt and it covers those hurt both on duty and off duty. I understand that the legislation which the chairman introduced and which the administration supports leaves duty undefined. I don't know, perhaps earlier today you were able to define it with more precision, but could you tell us

what is your thought about line-of-duty accidents?

Would you be willing, as I am sure you are, to have as broad a defini-

tion on that question as possible?

Mr. Kleindienst. Well, I would say, roughly, it would encompass the concept that you find in most workmen's compensation statutes, that if the death arose out of an occurrence during the scope of his employment, that that would be contemplated to be covered under the

legislation.

I think that your approach to this problem, at the time your bill was introduced, was commendable. It touches upon a slightly different aspect of the problem than this. Although I recognized many good features in your proposed legislation, I think for the specific problem that we are addressing ourselves to today, that the administration's approach is a bit more directly applicable.

Senator Kennedy. Of course it provides for significant remuneration for those who are killed in line of duty activities, and yours obviously does too, but I don't see where it touches on those who might

be seriously hurt.

Mr. Kleindienst. It would not.

Senator Kennedy. Well, don't you think that law enforcement officials if they are not killed but seriously hurt in the line of duty should receive some kind of compensation for that?

Mr. Kleindienst. They should and in most States they would, under workmen's compensation benefits or as a result of private insurance. Senator Kennedy. This is the point, you must understand how diffi-

cult it is for police officers to get private insurances.

Would you have any objection if we modified or adjusted it to in-

clude those who are seriously hurt?

Mr. Kleindienst. I do not think that this is irreconcilable with the administration's program, with respect to a death benefit on the one hand and a plan by which police officers, law enforcement people, would have available to themselves an accident and hospitalization benefit plan for accidents which would arise in the course of their employment on the other. I don't think they are irreconcilable at all.

Senator Kennedy. Obviously this has to be worked out actuarially and in other ways, but if we were able to do so, wouldn't that complement the efforts of the administration in this area if we were to provide

that those who were hurt on duty would be covered?

Mr. Kleindienst. I think they are separate and distinct approaches to two aspects of the problem. Under the administration's bill, upon the certification of the Governor the dependents would get paid outright \$50,000. Under your approach to the problem, Senator, the police officer would pay 30 percent, and 70 percent of the premiums would be paid provided that the local, political subdivision embodied the plan.

It seems to me that many of the political subdivisions in the country, for one reason or another, might not participate in the plan, and for that reason you would exclude some police officers. But, as I said, it is not irreconcilable to give consideration to having adequate accident

benefits for law enforcement officers—

Senator Kennedy. Well—

Mr. Kleindienst (continuing). That is, on an actuarial basis as com-

pared to a direct benefit basis.

Senator Kennedy. If the question is your concern that with matching funds the local groups might not participate, I think you should remember we are trying to solve a problem that the administration has stated to be of great enough import to provide this benefit under its bill. And it seems to me if someone is involved in pursuing his law enforcement duties and he gets shot in the back, it seems to me that ought to be considered.

Mr. Kleindienst. There is no argument there.

Senator Kennedy. I think all of us are realistic enough to know that the workmen's compensation program in most States is quite

inadequate.

I don't see why the logic used for your bill concerning officers killed in line of duty doesn't apply to those who are seriously hurt in the line of duty. If the problem is that we don't want to pass it because we don't know whether the local subdivisions would be willing to take advantage of it, I am sure you and I and the chairman could work out a formula that would appear sufficiently attractive so that they would.

Mr. Kleindienst. I have no argument at all with that, I would just say that you could divide the problem into two parts: A death benefit

without any strings attached for being killed in the line of duty on the one hand, and an examination of a practical, feasible, and actuarily sound program for accident and disability insurance for law enforcement officers. They do not exclude each other and they are not irreconcilable.

Senator Kennedy. Do you see them as complementary to each other? Mr. Kleindienst. They are addressed to the same problem, but to

two different aspects of the problem.

Senator Kennedy. I don't see the difference for the legislation except that it might take a couple of pages to spell it out and perhaps would require additional funds or resources. But I would think if you are interested—as I understand you are—in giving to these men who serve in the line of duty some sense of security by providing for their families, which security they do not have at the present time—and I believe that is one of the fundamental tenets of this type of legislation—it seems to me the logic of that argument should apply equally to an individual who is seriously injured in the line of duty.

In many respects the obligations are even more critical for an individual injured in the line of duty. That is obviously a feature of the insurance part of it, but it seems to me that the logic of the administration's proposal would apply equally to that situation. I would hope you would be able to work with us in trying to find ways that we could

cover that.

Mr. Kleindienst. We would be very willing to do so, sir.

Senator Kennedy. All right. Another feature of this would be the fact that it is exceedingly difficult for police officers to get any kind of insurance or coverage for off-duty accidents. It is exceedingly difficult for them to get any coverage just because of the nature of their work.

Mr. KLEINDIENST. I wasn't aware, Senator, on an actuarial basis for an off-duty accident, where the accident wasn't related to employment, that it was difficult to get insurance. If that is true, that comes as a sur-

prise to me.

Senator Kennedy. Well, it is my information, and we have had some hearings on it, that given the fact that off-duty policemen in many instances are carrying guns or weapons—that just the rules of the insurance mechanism make it difficult for police to get coverage.

We would like to attempt to get more information and to explore it. And in terms of equity for insurance, we are once again getting into the aspect of security for law enforcement officials. I hope that at least we can work with the administration in attempting to see if there are inequities there. And I believe we should pursue this and see if there is some reasonable method of trying to adjust this.

The thrust and direction of this legislation—what I am sure must strike anyone as being important and worthwhile in compensating individuals and their families—the question of course which immediately comes to me is what we are doing to try and prevent the loss

of life.

And your own statistics, your 1970 figures, show that of the 100 law enforcement officials that were murdered in 1970, 73 were murdered by handguns and 20 more by other kinds of firearms. That makes 73 individuals, police officials, that were murdered by handguns of the 100 actually murdered last year.

And I am reminded that we had an Attorney General up here in February who indicated that the administration was going to make some recommendations to this committee about handguns, and we still haven't received those.

I am wondering, as we talk about how we are going to compensate people who are actually shot, whether we shouldn't start thinking about following the recommendations of the Kerner Commission, the Brown Commission, and the Scranton Commission and start dealing with the control of handguns.

We have the Police Commissioner of New York and others all of whom have testified that that is the most effective way of trying to halt the wholesale killing of police officers. So when is the administra-

tion going to come up with a recommendation?

Mr. Kleindenst. We are in the process now, Senator, of preparing a bill for possible submission to the Congress that would deal with one aspect of the problem and that is the outlawing of the so-called "Saturday night special" type of handgun, a weapon that is dangerous to the user and of low quality and which can't the justified as either for self-protection or for sporting purposes.

You touched upon a very serious aspect of a long-range problem in our society in a time of social change, and it is a complicated one.

However, the long-range solution to that should not, in my opinion, deter our efforts to address ourselves to a specific aspect of the problem, and one that in our opinion cries for attention right now.

Senator Kennedy. Fine. We are all for specific solutions and this is a very specific solution. It has been recommended by the commissions that have studied the problems and recommended getting some kind of restriction in the use of handguns.

The last three Attorney Generals have come up and testified here on this. The FBI figures say that during the period of 1961 to 1970 firearms were used by felons to commit 95 percent of police killings.

Now you say perhaps something will be submitted and perhaps it is being developed and something is being developed right now on the so-called "Saturday night special" and these are dangerous to the users and so on. But we have a very specific recommendation here. It is not very complicated. All it would do would be to stop the sale of handguns to these people.

Now, we have had the Attorney General state here he would submit his recommendations to this subcommittee. That was in February of this year and still we have silence on this issue. Every group that has looked at the problem of killings of police officers has made this

recommendation.

When are we going to have the administration make some kind of a recommendation?

Mr. Kleindienst. Since that statement in February, the administration appeared before the committee through the Department of the Treasury, wihch stated the official administration position in this

general area.

Senator Kennedy. Well, as far as the Justice Department and the Attorney General are concerned when will you take a position? And when you sit on this subcommittee for the limited period of time I

have, I have heard three Attorney Generals take the lead on this question and yet these is still silence on this from this Attorney General and apparently from yourself.

I mean, do you believe that some kind of control of firearms which have been used in 95 percent of the police killings, ought to be made; that there should be strong restrictions on the use of handguns?

Mr. Kleindienst. We believe there is some kind of control, Congress has dealt with this problem. We are in the process of preparing legislation right now that would go to another aspect of it. It will be submitted to the Congress soon.

And we believe that Congress rightfully legislated with respect to the transportation in interstate commerce of certain kinds of weapons and in prohibiting the shipment of weapons into any State which by its own law would prohibit the sale of traffic of such weapons.

We are going to address ourselves soon to another specific aspect of the problem, Senator. So part of our silence has been acquiescence

in what the Congress has already done in this area.

Senator Kennedy. You are content to leave these matters up to

Congress? Hasn't the administration a position on it?

Doesn't the administration have a position on this question which strongly affects law enforcement? Because this has been one of the uniform recommendations of different committees and other groups, bipartisan groups. Former Attorney Generals who have testified have said that the single most significant action that could be taken to halt killings is putting some kind of limitation on the use of handguns.

Now I am interested in your views of what Congress has done in the past and I am interested in what your position is. Don't you believe we ought to have a strong restriction on handguns, stronger than we have now? These handguns have been involved in 74 percent

of the police killings from 1961 to 1970.

Mr. Kleindienst. As I indicated, we are in the process of sending a recommendation to Congress but our recommendation would not go

to the confiscation of all handguns in the United States.

Senator Kennedy. What about this fact that 75 of the police killed last year were killed by handguns; that is, 75 of the 100 police murdered were murdered by handguns, don't you believe we should have a strong handgun control in view of that?

Mr. Kleindienst. I believe we should have a strong handgun control

law.

Senator Kennedy. When is the administration going to send us their recommendation?

Mr. Kleindienst. As far as the administration is concerned, its views were presented to the committee by the Department of the Treasury—

Senator Kennedy. You are not going to make your own recommendations? The Attorney General said you are going to make recom-

mendations to this subcommittee.

Mr. Kleindienst. The recommendations that he was referring to have been presented to the Congress by the Department of the Treasury in addition to the legislation we are now in the process of preparing.

Senator Kennedy. What are they? You must be in communication with the Treasury. Could you enlighten us on what your recommendations were to the Treasury as the principal law enforcement agency?

Mr. Kleindienst. I have the material available. I don't have at my fingertips, Senator, the presentation that was made by the Department

of the Treasury, but I do have it available.

Senator Kennedy. What are your own views on it?

Mr. Kleindienst. Well, my own view, just generally speaking, Senator, is that you have a variety of factors in a society like ours that has grown over some 200 years. And you have to be careful, it seems to me, from the standpoint of congressional enactment of gun control, to

balance the interests of the various segments of our society.

I believe that there is an interest in our country, in many areas of our country, to protect the right of the citizens to have firearms for hunting, for sporting and for self-preservation, and I believe at the same time that there has to be some intervention by the Federal Government to interrupt the interstate commerce in dangerous weapons and to protect the rights of those States who legislate themselves on this subject matter by prohibiting interstate commerce in such weapons.

I believe also that there is merit in a proposal that we are now working on to prohibit the sale and commerce of the so-called "Saturday night specials"; that is, cheap, poorly constructed weapons that are

dangerous to the user and dangerous to society. Senator Kennedy. When will we get those?

Mr. Kleindienst. You will get it in the very near future, Senator

Kennedy.

Senator Kennedy. Well, as you know, this is an area of particular interest to me. I have asked the Attorney General about this and am going to continue until we have some recommendations. I think it is one thing, and I support the efforts and have been very involved in these efforts myself, to support what we ought to do about policemen who are killed, by trying to provide some security to their families. But when you realize the number of policemen who were killed by handguns, then I think you have to look at that issue too; and there is a real silence, the Justice Department having made no recommendations.

During the last 3 years I have yet to see recommendations by the Justice Department on handgun control let alone on long guns. The Brown Commission, the Eisenhower Commission, the Kerner Commission, all of which have been bipartisan, all have recommended strong gun controls particularly in the area of handguns. In view of that, I think many of us grow impatient but we'll wait and see what these recommendations are.

Can you give us any indication as to when you think they might

Mr. Kleindienst. Some time within I would believe the next 30 or 45 days, Senator.

Senator Kennedy. OK, Thank you. Mr. Kleindienst. Thank you, Senator.

Senator McClellan. Senator Thurmond?

Senator Thurmond. Thank you, Mr. Chairman. Mr. Kleindienst, I want to commend you for your excellent statement this morning.

Mr. Kleindienst. Thank you, Senator.

Senator Thurmond. On page 7 I notice under Federal Precedent, you state Congress has already taken some action by authorizing payment of \$50,000 to survivors of police and other public safety officers killed in line of duty in the District of Columbia. Does that include firemen?

Mr. Kleindienst. Yes, sir.

Senator Thurmond. What do you mean when you say "other public safety officers?"

Mr. Kleindienst. The District of Columbia compensation provision covers policemen, firemen, and certain other law enforcement officers.

Senator Thurmond. Here in the Dristict of Columbia when you say "policemen," that includes motorcycle, foot officers, automobile patrolmen, and what not. Their survivors could all have received \$50,000?

Mr. Kleindiest. Yes, and Park Police, White House Police, and

some members of the Secret Service.

Senator Thurmond. The same amount that is recommended here nationwide?

Mr. Kleindienst. Yes, sir.

Senator Thurmond. In the next paragraph I notice you state that Public Law 90-291, which became effective in May of 1968, amended the Federal Employees' Compensation Act to provide Federal benefits to survivors of local police officers killed while enforcing a Federal law or guarding a Federal prison.

So, any local or State officer now would get \$50,000 if he is killed while enforcing a Federal law or while guarding a Federal prisoner

for instance?

Mr. Kleindienst. Yes, sir.

Senator Thurmond. So what you are recommending now is to broaden the law to give \$50,000 to any officer who was killed in the line of duty?

Mr. Kleindienst. As a Federal floor or minimum.

Senator Thurmond. Pardon?

Mr. Kleindienst. As a Federal floor, Senator. It would not be exclusionary of any other benefit that might be considered. It would be a minimum Federal floor.

Senator Thurmond. This would be in addition to anything provided

locally by groups of citizens?

Mr. Kleindienst. Right, or any other act of Congress that would

deal with the general problems of police employment.

Senator Thurmond. Well, I intend to support this bill. The question that arose in my mind is whether with regard to the State officers and local officers it would be better if the State put up half of the funds and let the Federal Government put up the other half. The theory being that this would create more interest on the part of the State and they might take better precautions and train their people better in order to avoid paying out this money as well as trying to prevent the death of the officer.

Mr. Kleindienst. I think that has some merit, Senator Thurmond, but when you get down to States and political subdivisions and the counties and cities, you might have a substantial delay in having

State legislatures enacting legislation to enable them to do it and appropriating the money. You might have difficulties as between city police forces and the State legislatures. It would be our intent to establish a Federal floor and to provide a means whereby, almost immediately, efficiently and effectively this floor could be established.

Senator Thurmond. We have many so-called matching programs, for example, in the agricultural programs, in vocational education programs, and other things. The Federal Government will match funds with the local community, but the local community or the State

must put up a certain amount.

I think instead of requiring a small community to match funds, which they might not be able to do if it was a small community, don't you think it would arouse the interest on the part of the local citizens to do this if the Federal Government stands ready to match funds and say put up \$25,000 if the States put up the other \$25,000 for a law

enforcement officer who was killed in the line of duty?

I am just wondering about the Federal Government undertaking everything. In the first place, we haven't got the money. We are running in a deficit now. We are running in about a \$20 billion deficit this year. In the second place, under our form of government, our Federal Government, why should the central government take on all of these responsibilities and assume complete responsibility for this?

It just strikes me that where Federal officers are concerned or where a Federal law of the Federal Government is concerned, this responsibility probably should apply but where a State or local officer is concerned, then why not let the State bear, say, half of that or some

proportion of that?

Mr. Kleindenst. Wel, generally speaking, Senator, my personal philosophy is such that States and local communities should be encouraged to accommodate themselves to problems of this kind and to come to the Federal Government as the last resource, when it is demonstrated, only by doing so or a failure to do so, that the problem is either going to be solved or exacerbated.

In this situation, however, you are dealing with a relatively small class of persons, tragic but small. Second, I think just in terms of this particular time in our Nation's history that speed and quickness are

desirable.

I think most States would lend themselves to this program rather readily, just knowing politics in America, but many might not. In this particular, isolated situation—in view of the constant risks in society today that police officers all over the country have to face—in this particular situation I think it is a legitimate exercise of the Federal Government's role to provide this floor. And the amount of money, in terms of fiscal policy, would be so relatively small in comparison with what we feel would be the impact psychologically on our police officers throughout the country, that indeed having this kind of thing might tend to encourage better law enforcement practices.

So, although I generally have my own philosophy of non-Federal intervention, I think I would respectfully deviate from that in this

instance and recommend it.

Senator Thurmond. Well, no one believes more than I that law enforcement deserves more backing. I have been a Governor and I

backed them then and I have backed them since I have been in

Congress. I am a strong supporter of law enforcement people.

On the other hand, I do think that the States have certain obligations and certain responsibilities and it would seem to me that this is one situation where possibly they should be required to meet them and

I think they would.

My feeling is if we pass a law providing that in the case of Federal officers or in the case where State or local officers are enforcing Federal law that the State would match and I would predict that all of the States would take advantage of this law within a reasonable time. There would be pressure locally to do this and there ought to be.

I just dislike to see the Federal Government taking on more and more responsibilities which are really not its responsibility. These are

State responsibilities to enforce State laws.

We don't have a national police system, for example, in the case of murder, we don't have a national law against murder. Murder is a violation of State law. If the State doesn't exercise the necessary care to protect people and better train its police officers and do the other things necessary to prevent these things, why shouldn't it bear some of the share! And don't you think it would encourage the State to use better precaution and train their people and follow up-to-date systems to a greater extent if they have to share this responsibility?

Well, at any rate that is my thinking. As I said, I will support this if it is necessary but I would rather see the States share in this responsibility. Now, I want to ask you this, what organizations will determine whether or not the policeman was killed in the line of

duty?

Mr. Kleindienst. That would be an administrative responsibility of the Governor of each State. The act would leave that largely to that particular Governor's administrative discretion.

Senator THURMOND. So, it would be up to the State to determine the

organization?

Mr. Kleindienst. Right, I would imagine that in most States the Governor would delegate it to the attorney general of the State and have some kind of a factfinding determination as to the certification.

Senator Thurmond, And the certification by the Governor would

be evidence the officer was killed in the line of duty?

Mr. KLEINDIENST. That is all of the evidence that would be required, Senator.

Senator Thurmond. Would the situation arise where the Federal Government might question whether a man was killed in the line of

duty even though the Governor has certified he was?

Mr. Kleindienst. Under this act if the Governor certified it, the amount would be paid. I don't believe you were here when I elaborated on that point. Senator, but one of the arguments that we feel that is strong for the enactment of this law is that it has an efficient means of administration. Its benefits could be paid quickly and speedily to the widow and the children, so they don't find themselves tied up in a lawsuit with lawyers participating in the amount.

And I believe that the Governors of our 50 States will accept this

as a serious responsibility. Once the certification would be made, that

ends it so far as the Federal Government is concerned.

Senator Thurmond. Now, what criteria will be used to determine whether a policeman died in the line of duty? Do you use only the certification of the Governor as far as the Federal Government is concerned?

Mr. Kleindienst. There are today existing State standards, for example, on workmen's compensation, so that there will be adequate precedent in our 50 States which would help the Governor arrive at that decision.

Senator Thurmond. Regardless of what administrative procedures were used by the Governors, the only thing as far as the Federal Government is concerned, is the certification by the Governor?

Mr. Kleindienst. Yes, sir. Admittedly there might be isolated in-

stances of abuse, but they would be minor.

Senator Thurmond. Well, suppose an investigation was made and it was determined by the Federal Government that the man did not die in the line of duty but the Governor certified it. Would it still be paid?

Mr. Kleindienst. Unless you could show fraud on the part of the Governor, I think it would be paid. If it was just a mistake of

law----

Senator Thurmond. Well, not fraud but an error?

Mr. Kleindienst. I would say the determination wouldn't be set aside with respect to error unless the error was so gress as to almost constitute culpability or fraud.

Senator Thurmond. Would the \$50,000 gratuity be taxable or would it qualify as a nontaxable workmen's compensation payment under

section 104 of the Internal Revenue Code of 1954?

Mr. Kleindienst. It would be nontaxable.

Senator Thurmond. I was wondering about the fact that you said this act does not cover firemen.

Mr. Kleindienst. It does not.

Senator Thurmond. A lot of firemen are killed in the line of duty.

Mr. Kleindienst. I know that.

Senator Thurmond. Do you have any reason for not including them?

Mr. Kleindienst. There are no good reasons. In terms of priorities, we would have no objection to the Congress' considering the advisa-

bility of similar benefits for firemen.

In terms of the immediate situation and the degrees of risks and constant exposure, I think that the relative interest in favor of quick action for police officers or law enforcement officers is higher today than it is for firemen, but I would be the last one to say that a fireman isn't faced with a similar problem.

Another aspect of this is the fact that many of our firemen throughout the country are voluntary citizens. They are not professionally employed on a full-time basis. And this creates other problems which are not insurmountable. Our presentation today is limited for those

reasons as to law enforcement officers.

Senator Thurmond. I am wondering this, if we pass this law, do you feel it will be a step toward federalizing the police force of this Nation?

Mr. Kleindienst. No, sir.

Senator Thurmond. I have been opposed to a national police system

and I know you are.

Mr. Kleindienst. You may be opposed, Senator, and I am most bitterly opposed, because I feel if the future day ever came in this country where we had 500,000 Federal police officers patroling every block and street in this country, we would raise one of the most serious threats to our personal liberties I can think of.

If I thought for a moment or if the administration felt for a moment that this response to a specific need would raise any argument for having a Federal police force in all of the States, we wouldn't be here. I sincerely believe this couldn't be used as a lead-in into

that kind of a situation.

Senator Thurmond. I am glad to hear you express yourself on that point.

Mr. Kleindienst. I wish I had the means to be more specific.

Senator McClellan. Are there any further questions?

Senator Kennedy. Just on this one point.

Would you oppose an amendment which would provide a similar kind of benefit to firefighters?

Mr. Kleindienst. Personally, I would not, Senator Kennedy.

Senator Kennedy. And the administration?

Mr. Kleindienst. I am not authorized to speak on behalf of the

administration on this, but personally I would not.

Senator Kennedy. Well, as Senator Thurmond mentioned, many of the firefighters, actually probably more firefighters than police, were killed in the wake of the riots of 1967 which took place in many cities around the country and I know they feel extremely strongly about this type of legislation.

Mr. Kleindienst. We haven't had that situation though.

Senator Kennedy. You haven't had it but I think when we are looking at the situation, we don't want to leave out closely related problems.

Mr. Kleindienst. I find it very clear in terms of my own feelings, but I have to say I am not authorized on behalf of my employer to

state an administration position to that.

Senator Kennedy. Could we request the views of the administration on that particular question, Mr. Chairman, to find out what the views of the administration would be to amending this to include firemen?

Senator McClellan. You may make a request.

Senator Kennedy. All right; thank you very much.

Will you give us the views of the administration on it other than your own?

Mr. Kleindienst. To the extent that I can determine what they

are I shall.

Senator Kennedy. All right.

Senator Hruska. Mr. Kleindienst, in regard to the \$50,000 Federal benefits for District of Columbia policemen, there is a situation, is there not, that has developed since that law was enacted which does result in a disparity. As I understand it, the compensation due under the Federal Employees Compensation Act is reduced by the \$50,000 that would be paid under the Federal law.

Mr. Kleindienst. That is correct.

Senator Hruska. Would there be any disposition on your part and on the part of your Department to considering an amendment which would eliminate that disparity?

Mr. Kleindienst. I believe so.

Senator HRUSKA. The disparity lies in the fact that \$50,000 grant to other local police officers is not subject to reduction by the amount of workmen's compensation or other benefit payments.

Mr. Kleindienst. Correct; I didn't allude to that, Senator, but I was aware of that fact. It may be consistent with our presentation here to provide a Federal minimum over and above anything else they

would receive.

Senator Hruska. Of course, when we get into the matter of disability, the degree of disability, and all that it would embrace other than death benefits, then we are dealing in another field, aren't we? Instead of having a rough average of 80 to 100 cases a year, which is the experience of the last 5 years, we would be confronted with a figure based on the fact that there are approximately 500,000, that is, law enforcement employees in this Nation. Disability cases based on this figure would be great indeed.

Mr. Kleindienst. You are talking about a comprehensive insurance program, with participation so far as premiums are concerned, by the officers and government and all of the other complicated problems

of insurance.

Senator HRUSKA. Certainly. And as far as the suggestion from the Senator from South Carolina that we consider a matching program, if we got into the matter of a matching program in this field, it would certainly be a problem of different dimensions and different considerations, wouldn't it?

Mr. Kleindienst. I wish I shared the distinguished Senator from South Carolina's faith and the 50 State legislatures would address themselves to that problem immediately with matching funds.

Senator HRTAKA. Of course in the Employee's Compensation Act we have a great variety of differences of opinion among the States which would not be accommodated if we had a blanket coverage nationally.

Mr. Kleindienst. Right.

Senator HRUSKA. Mr. Kleindienst, it was with interest that I heard again this morning for the second time in about 3 weeks the argument that there should be a prohibition of handguns and that issue has been raised here again this morning.

This hearing is not designated for that purpose. It was not called to get into this matter of prohibition of guns. Not too long ago there was another hearing on another bill that was supposed to have cir-

was another hearing on another bill that was supposed to have curscribed limitations also but those boundaries were transgressed by

virtually every one of the witnesses who appeared.

Then, as now, the assertion was again made that the most effective way of reducing crime is by the absolute bar of handguns except by those engaged in law enforcement. The Congress has determined a national policy in that regard. Even to the limited extent of registration of guns, that issue was definitely turned down by both bodies of the Congress. There is national policy on that and that policy is based

on the theory that the Federal Government should interest itself in the intertsate shipment of guns; the matter of licensing and in making it possible for the States to exercise their own soverign power in dealing with handguns. After all of those processing have been done by the Federal Government, each State can then deal with the problem as it chooses.

Now, the question again is asked: Don't you agree that we need stronger gun control legislation? We had a witness 2 or 3 weeks ago before another subcommittee of this committee who testified that there should be an absolute bar on handguns. First of all, I would like to suggest in the context of these hearings that there is an absolute bar for 57 percent of those who engaged in these police killings. Sixty-seven percent of those who had been previously convicted of criminal charges had been granted leniency in the form of parole or probation. Every one of them having been convicted was ineligible for the ownership and the possession of a gun under Federal law right now.

There is an absolute bar on that convicted felon. Now, that is as absolute a bar on the possession of guns as you can legislate. Yet, we have these people—71 percent of the offenders had prior arrests for criminal charges and 57 percent had been convicted—illegally possessing the

guns which were used in these killings of police officers.

There are other bars. There are other bars and are they the most effective way of dealing with the problem? We have the State of New York with an absolute bar on handguns unless they are registered and a permit issued. Only 20,000 permits have been issued in New York City and yet we have the testimony of law enforcement officials in the city of New York in which it was stated that there are at least a half million unregistered guns for which permits have not been issued in the city of New York alone.

I am not going to ask you whether you think in your good judgment that that demonstrates that legislation of this type is the most effective way of reducing crime. When one of the greatest cities of the Nation confesses that there are a half million illegal guns and only 9,000 have been seized during the calendar year 1970, I won't ask you if that is the most effective way. We don't know what prosecutions were instituted as a result of the seizure of those guns nor do we know how many trials were held in those 9,000 cases or how many were actually found guilty and if they were found guilty, whether or not they were granted leniency in the form of parole or probation as was the case in 67 percent of those persons involved in the police killings. We don't have any of those figures.

We have asked for that information. We trust it is going to be furnished us soon. When you get into the matter of the larger field of stricter gun control laws, there isn't such a thing as a stricter gun control act. The only thing that is left is a total bar, a total prohibition. And the question logically will have to arise before decision by the Members of Congress whether if a simple registration act is unproductive as it is in New York, after 60 years on the books whether an absolute bar of guns will be any better or have any greater impact in

reducing crime. That is the big issue.

Everyone wants to keep guns out of the hands of criminals, as far as I know, and this Senator is one of the most firm in that conviction.

Everyone wants to take any steps that are necessary and actually effective to keep the guns out of the hands of the wrong people; if, however, it is going to mean a prohibition of all guns, this Nation will not stand for it.

The Congress has spoken on that. My judgment and my conviction is that if that issue is presented again, the prohibition of guns and the absolute bar of guns will again be turned down by the Congress and

for a good reason; it is totally unworkable, ineffective.

It has often been said that a prohibition of guns will mean that nobody will have guns except the criminals. We can be sure that with the heavy penalties already provided in the law, and unfortunately not inflicted upon those found guilty, criminals do have guns and they

do use them. More penalties will be no more effective.

That is a larger issue. It is not for this hearing. This hearing is not the place to thrash this out but inasmuch as some comments and some questions have been asked on this, I made these remarks. I have presumed on the patience of the chairman a great deal. I apologize but I thought these points should be made.

Senator McClellan. Will the Senator yield?

Senator Hruska. Surely.

Senator McClellan. I would like to proceed with the hearings that are scheduled for today for the consideration of the bill before us. This question of gun control can be argued indefinitely by those who have conflicting views. Ultimately the positions will get before the Congress and be considered.

But I would like to go on with this hearing. We can set aside 10 more minutes to discuss gun control. We can divide the time equally. If we have anyone else here today that wants to be heard on the subject of cun control, I am perfectly willing to accommodate him with a reasonable time, but I want to move on with this scheduled hearing.

Is there any objection? Very well, we'll proceed.

Are there any other questions of the witness? Thank you.

Mr. KLEINDIENST. Thank you, gentlemen.

STATEMENT OF FERRIS E. LUCAS, EXECUTIVE DIRECTOR, NATIONAL SHERIFFS' ASSOCIATION, WASHINGTON, D.C., ACCOMPANIED BY COURTNEY A. EVANS, ATTORNEY FOR THE NATIONAL SHERIFFS' ASSOCIATION

Senator McClellan. The next witness is Mr. Lucas. Mr. Lucas, you may identify yourself for the record and your associate with you.

Mr. Lucas, I am Ferris E. Lucas, executive director, National Sheriffs' Association and on my right is Mr. Courtney A. Evans, Washington attorney for the National Sheriffs' Association.

Senator McClellan. All right. You may proceed.

Mr. Lucas. Mr. Chairman, for your convenience I have a printed copy of my comments which, in the interest of time, I will only summarize. I am grateful for the opportunity to appear before this committee on behalf of the 22,000 members of the National Sheriffs' Association in support of S. 2087. The NSA is the official spokesman for the Nation's 3,099 sheriffs and approximately 50,000 deputy sheriffs.

I would like to illustrate a few points covered in my printed statement. There are sheriffs in remote areas of the country who have only one deputy and the sheriff's wife may be the only person available to answer the phone while the sheriff is on call.

There is one county which employs about 8,000 deputy sheriffs. We,

therefore, represent law enforcement organizations of all sizes.

I would like to point out some of my own experiences when I was a sheriff in Michigan. I started out as a deputy sheriff and at that time I had to pay an extra premium for life insurance because of the hazards of my job.

I was elected sheriff some time later and I had to pay another step up in my life insurance premiums in order to secure this protection.

This is a hardship in many places in the country today.

While I was sheriff my undersheriff was killed on duty. He had a wife and two children but he was a young man. His survivors received some workmen's compensation. He had previously been employed in a factory and his widow and children received some social security benefits, but these were very minor. His fellow deputies and other police officers, plus many citizens and friends, collected some money to help pay the funeral expenses and other debts for his widow.

When I was a deputy, we had a shooting in which a deputy sheriff and an undersheriff were killed. The undersheriff had one young daughter and the deputy had no children. Once again there was no money available for the dependent survivors of these brave officers.

In most areas of the country the sheriff and his deputies as well as local police officers are underpaid and their jobs are hazardous.

Many of America's best qualified young men are reluctant to choose a law enforcement career not because of the hazards of their job but because of the lack of reasonable benefits for their survivors should they be killed in line of duty.

The language of S. 2087 should be changed to insure that the sheriff and his deputies are included in the definition of a police officer. This proposed legislation which provides for the payment of \$50,000 would,

we hope, make it tax free.

With these clarifications, the NSA urges the enactment of S. 2087. Its passage will raise the morale of law enforcement officers throughout the Nation.

If there are any questions, Mr. Chairman, I will be glad to answer

them if I can.

Senator McClellan. Thank you. Your statement will be printed in full in the record and the remarks you made will be introductory and your prepared statement will follow in the record.

Mr. Lucas. Thank you.

(The statement of Ferris E. Lucas in full follows:)

STATEMENT OF FERRIS E. LUCAS, EXECUTIVE DIRECTOR, NATIONAL SHERIFFS' ASSOCIATION, BEFORE SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURES OF THE COMMITTEE OF THE JUDICIARY, U.S. SENATE, ON S. 2087, THE POLICE OFFICER'S BENEFIT ACT OF 1971 ON SEPTEMBER 29, 1971

I am grateful for the opportunity to appear before this Committee today on behalf of the more than 22,000 members of the National Sheriffs' Association in support of S, 2087, the Police Officers Benefit Act of 1971, Although our Associa-

tion is the official spokesman for America's 3,099 sheriffs and their many thousands of deputies, we are also concerned with all law enforcement, and number among our members; administrators and practitioners at virtually every level of jurisdiction.

The office of Sheriff is one of the oldest in the United States and traces its ancestry back to the earliest days of Anglo-Saxon jurisprudence. Today's sheriffs have staffs ranging from a single deputy in some sparsely-populated, largely rural, counties, to more than 8,000 deputies in the nation's most heavily populated county. The jurisdiction of the sheriff ranges from the rural countryside to the major metropolitan areas, and encompasses the entire spectrum of law enforce-

ment and the criminal justice process.

While in recent months and years, more police officers of major cities have met felonious death than have sheriffs' deputies, it is increasingly apparent that violent crime is spreading. It knows no jurisdictional boundary. It respects not the color of a law enforcement officer's uniform. Each officer, whatever his status, wherever his commission, must be fully cognizant as he dons his uniform and prepares himself for duty, says his farewell to his family, and leaves his domicile for his day's (or night's) work, that death may come to him in the performance of his sworn duties.

Dedicated to his law enforcement career, he is usually not nearly so concerned with his low salary as he is maintaining and preserving the security of his family. The Law Enforcement Officers' Group Life Insurance Program provided by the Congress last year in Public Law 91-644 was a first step in providing some

security to the dependents of a peace officer, in the event of his death.

In the case of the average law enforcement officer, however, this protection is only nominal because the amount of private insurance he can purchase with his low salary is normally insufficient to provide for the needs of his dependents. Thus, the enactment of S. 2087 will meet the security neds of these dedicated public servants by paying a gratuity of \$50,000 to the dependent(s) of a peace officer killed in the line of duty.

Any business or government executive will assert that any increase in the morale of an employee will uniformly and simultaneously result in increased efficiency. S. 2087, if enacted, will produce better law enforcement service to the American people because of this fact. Its cost is small in relation to the societal benefits to be gained. Its cost is insignificant when compared to the sacrifice to the

officer who gives his life to protect and preserve society.

Some language of the statute needs clarification. S. 2087 provides payment to certain dependents of "a police officer employed by that state or a unit of local government within the state to enforce the criminal laws (who) has been killed in the line of duty." The duties of the Sheriff in most states are many and varied. He and his deputies enforce the criminal laws by investigating crimes and making arrests just as the average city police officer does. In addition, however, the Sheriff generally has custody of persons charged with violations of the criminal laws who are detained pending a preliminary hearing or until tried in court. These prisoners include not only individuals arrested by his own deputies but, in addition, those arrested by other local and state police officers. In some jurisdictions custody of those awaiting trial is within the jurisdiction of a local warden or jailor. The Sheriff is also charged with the custody of those prisoners sentenced to a term of detention in the county jail and with the responsibility of transporting prisoners from the county jail to court and vice-versa. He also is in many cases responsible for delivering sentenced prisoners to the appropriate state institution and must maintain peace and order in the court room itself. The language of S. 2087 should be changed to insure that the Sheriff and his deputies are included in the definition of "police officer" and the term "enforce the criminal laws" should include all hazardous contact with persons accused of a crime.

Wardens and corrections officers at both the State and local level can also be said to be enforcing the criminal laws. Recent events at Attica and San Quentin prove the danger in such assignments. In fairness then S. 2087 should

include these officials.

The proposed legislation provides for the payment of a "gratuity". This implies that dependents of the deceased officer are to receive a gift not subject to tax or other claims. I am not a tax expert and I raise this point just to insure that, if required, the intent of Congress will be properly set forth.

With these clarifications, the National Sheriffs' Association urges the enactment of S. 2087. This legislation will raise the morale of all law enforcement. It follows that the nation's citizens will benefit from better enforcement of our criminal laws.

Senator McClellan. Senator Hruska? Senator Hruska. I have no questions.

I might observe that the point about the tax exempt status for these benefits has been raised and it will be considered by the subcommittee and clarified.

Senator McClellan. I see Mr. Coster is still here. Mr. Coster, would you make note of this and let us have the administration's point of view on this tax exempt proposal?

Mr. Coster. Yes, Mr. Chairman.

(No information was subsequently received.)

Senator McClellan. If you would do that I would appreciate it. Senator Hruska. It would be important that we meet that problem in other areas where benefits and gratuities are paid by the Govern-

Senator McClellan. It may be that this will get us involved in some problems, some very complex problems, if we get into it. Generally you would favor it but I think that is something that this committee is going to have to examine. I don't think we can just immediately say out of sentiment, well, sure it will be that way. We are going to have to examine existing statutes and so forth with respect to other compensations.

Senator Hruska. I want to thank the chairman for that. It is not a matter of making the decision here, but sooner or later the issue will be raised, maybe when the benefit is paid. And we hope to anticipate that and consider all existing statutes and other factors as we process

this bill.

I have no questions of this witness.

Senator McClellan. Thank you very much. I understand the other two witnesses scheduled are not here but they have alternates.

Our next witness is Mr. Altman.

STATEMENT OF ANDREW T. ALTMAN, HEROES, INC., FOR LEONARD B. DOGGETT, OF HEROES, INC.

Senator McClellan. Mr. Altman, would you identify yourself

please?

Mr. Altman. I am Andrew T. Altman, and I am appearing on behalf of Heroes, Inc., which is a local, voluntary outfit which tries to look after the widows and children of deceased policemen and firemen.

Senator McClellan. How long has your organization been in ex-

istence?

Mr. Altman. Since 1964, sir, and since 1964 there have been 26 policemen killed.

Senator McClellan. Is it local? Is it just in the District?

Mr. Altman. No, sir; it encompasses the surrounding metropolitan areas, Arlington, Alexandria.

Senator McClellan. This immediate area?

Mr. Altman. This immediate area.

Senator McClellan. How is your organization supported?

Mr. Altman. Our organization is supported primarily by 100 men who contribute \$100 a year plus contributions made by those members over and above that plus contributions made from the general public.

Senator McClellan. Are those members of the police force?

Mr. Altman. No, sir. No member of our organization is a member of the police force.

Senator McClellan. Are they private citizens?

Mr. Altman. Yes, sir.

Senator McClellan. It is a nonprofit organization?

Mr. Altman. Yes, sir.

Senator McClellan. Do you know if you have any affiliated organizations elsewhere?

Mr. Altman. Yes, sir. I wouldn't call them affiliated, sir, but they are along the same line of endeavor. There are 14 throughout the United States.

Senator McClellan. They operate under a different name but they

actually seek your same objective?

Mr. Altman. Yes, sir. They are under several different names. The first one that was started was the One Hundred Club in Detroit in 1950.

Senator McClellan. And your organization was started 6 or 7 years ago?

Mr. Altman. 1964, sir.

Senator McClellan. All right. You may proceed. Do you have a prepared statement?

Mr. Altman. I don't have a prepared statement with me. We are

preparing one that we would like to present.

Senator McClellan. All right. You may present it for the record. Mr. Altman. Heroes, Inc., bases its support of S. 2087 of their personal knowledge of the needs of widows of policemen killed in the line of duty.

line of duty.

Our organization has gone out and met with the widows after a policeman has been killed and we have found out almost invariably the officer is heavily in debt and he has had difficulty in getting insurance. Accidental death coverage for a policeman is two times the normal; waiver of premiums is one time the normal and on their salary they

cannot afford to buy heavy insurance coverage.

The policeman normally has a small bank account. The widow finds herself cut off just like that, Senator. In many cases they do not have money enough to pay the funeral bill. The mortgage payments must be paid. Our organization starts out immediately with the \$1,000 check to the widow which is purely something to the her over for momentary purposes. Then we investigate the financial condition of the widow's setup and from there on we do whatever is necessary and what we think we can do.

The District of Columbia fortunately now has legislation which provides for the policeman, every member of the Executive Protective Service, the Secret Service, and the Fire Department with \$50,000 immediate coverage and we have found that this is one of the most beneficial things not only for the policeman and the fireman's piece of mind, but for the piece of mind of those who are left behind.

We earnestly support that bill. However, I would like to draw the

committee's attention to one thing that Senator Hruska pointed out, that is that this bill will in some measure decrease the protection afforded the metropolitan police because, as has been previously remarked, under Public Law 90–291 the Federal Government makes a matching contribution to the State to bring the payment made to the survivors of the policeman up to what the Federal officer would get.

And we feel strongly that perhaps this bill might cut down what the police officer will get if he is killed in line of duty, or rather what his widow and children will get and we think some attention should be

given to that, Senator.

Senator McClellan. Thank you very much. Any questions?

Senator Thurmond. I don't believe so. Thank you very much for your appearance here and your contribution to this hearing.

STATEMENT OF LOUIS WILLIAMS, EXECUTIVE SECRETARY OF THE ASSOCIATION OF FEDERAL INVESTIGATORS, ACCOMPANIED BY WARD ATHERTON, MEMBER OF THE NATIONAL EXECUTIVE COMMITTEE OF THE ASSOCIATION OF FEDERAL INVESTIGATORS

Senator McClellan. The next witness will be Mr. Louis Williams and also Mr. Ward Atherton.

Mr. Williams, would you identify yourself and also you, too, Mr.

Atherton.

Mr. Williams. I am Louis Williams, executive secretary of the Association of Federal Investigators.

Mr. Atherton. I am a member of the national executive committee

of the association, Mr. Chairman.

Senator McClellan. I note you have a prepared statement, gentlemen. Do you want to insert in it the record?

It is short, you can read it or insert it in the record.

Mr. WILLIAMS. Since it is very brief, Senator, it doesn't make any difference to me as long as we have it in the record.

Senator McClellan. All right. The statement in full will be printed in the record.

(The statement of Louis Williams in full follows:)

STATEMENT OF LOUIS T. WILLIAMS, EXECUTIVE SECRETARY, ASSOCIATION OF FEDERAL INVESTIGATORS, PRESENTED TO THE SUB-COMMITTEE ON CRIMINAL LAWS AND PROCEDURES OF THE UNITED STATES SENATE COMMITTEE ON THE JUDICIARY, ON SEPTEMBER 29, 1971, IN HEARINGS ON PROPOSED LEGISLATION TO PROVIDE A GRATUITY OF \$50,000.00 TO THE SURVIVORS OF A POLICE OFFICER KILLED IN THE LINE OF DUTY

Mr. Chairman and Members of the Subcommittee: On behalf of the more than 2.000 active members of the Association of Federal Investigators whom I am honored to serve as executive secretary, I wish to thank you for inviting our association to attend these hearings and to present our views concerning

some of the legislative proposals under consideration.

The Association of Federal Investigators is a nonprofit, nonsectarian national professional organization composed of career Federal criminal and general investigators and those Federal attorneys whose positions include the performance of investigative duties or responsibility for direct advisory or review functions concerning professionally conducted Federal investigations. Our members are joined together in chapters located in 17 major metropolitan areas, with each chapter having one or more members designated to serve and represent the local chapter on the national executive committee here in Washington, D.C. Association members are employed by law enforcement sections of all Federal

departments and other agencies with assigned investigative responsibilities. Some of our attorney members are engaged in prosecutive duties on the staffs of United States attorneys in the various Federal judicial districts. Others are employed on the advisory or review staffs of the larger Federal law enforcement agencies.

With that introduction to the organization I represent here, today before the

subcommittee, I will outline the association's views on S-2087.

Historically, the Congress has recognized the nature of the particularly arduous or otherwise unusual duties performed by employees engaged in criminal investigation, apprehension or detention of violators. In fact, in 1970, Congress passed, and the President signed Public Law 91-509. This law, in addition to considerably improving retirement benefits provided a \$50,000.00 survivor's gratuity for Metropolitan Police, Firemen, U.S. Park Police, the Executive Protective Service, and certain members of the U.S. Secret Service killed in the line of

Our association is in favor of the provision of S-2087 and supports this legislative proposal. However, we invite the committee's attention to a group of law enforcement officials that our association believes should be afforded equal consideration in this bill. We refer to the Federal investigator that carries a firearm or is empowered to make an arrest in enforcing criminal laws. In addition to his regular duties covering the apprehension and arrest of suspected or known criminals, he frequently works in concert with, and accompanies State, county, and municipal police officers in the performance of their duties when Federal laws have been violated. We strongly urge the committee to consider this group of enforcement personnel in this proposed legislation.

We believe that if S-2087 is enacted, it will not only provide substantial benefits to the survivors of officers killed in line of duty but will aid in recruiting and encouraging qualified personnel to serve in the investigative and enforcement

profession.

Senator McClellan. We'll be glad to hear any additional comments you wish to make.

Mr. Williams. The point I believe our association would like to

make, Mr. Chairman, is that we support this bill.

Senator McClellan. First give us a little background about your

association for the report.

Mr. Williams. Our association is a national, nonprofit, nonpolitical, nonsectarian professional association whose membership is drawn from the various Federal investigative and enforcement organizations. We have 17 chapters in major cities throughout the country and our present purpose is to encourage a professional approach to law enforcement. We have been in existence approximately 10 years and we have at this time approximately 2,000 members.

Senator McClellan. Mr. Atherton, do you have any comments?

Mr. Williams. First let me say, Senator, our association is very much in favor of this particular bill and we encourage that it be passed if possible.

We would like to point out one particular point that the bill does not make reference to the Federal criminal investigator who shares a great deal of the responsibility of enforcing the Federal criminal law and work in consort with the local law enforcement officer.

Senator McClellan. Under the provisions of the bill as now written, would a Federal investigator, for instance say in the narcotics

division, have this protection under this bill?

Mr. Williams. As I understand it, he would not.

Senator McClellan. How about an FBI man? Do we have a special statute for them?

Mr. Williams. Not under the present bill.

Senator McClellan. This bill just deals with State and local officials, does it not?

Mr. Williams. Yes, sir.

Senator McClellan. You may proceed.

Mr. Williams. We have approximately 12,000 people in the Federal Government who carry firearms or have the authority to make arrests and our association feels that those particular individuals, we would limit it to the investigator carrying a gun and having the authority to make arrests and enforce the criminal law, we believe that they should be considered in this bill.

Senator McClellan. I see. Anything further?

Mr. ATHERTON. I might add, Mr. Chairman, there is a precedent in Federal law for including these Federal officers with respect to the officers of the District of Columbia, the U.S. Park Police and the Secret Service agents as a result of legislation that was passed last year, 1970. That is the point that Mr. Williams has been making for our association, because as a result of that, we feel there is a precedent that we feel is, not by intent, but probably has just been overlooked.

Senator McClellan. I would hope that in the enactment of a bill to compensate the survivors of those who are actually killed on duty in law enforcement service, those who make arrests, who come face-to-face with violent elements, that we do not exclude anyone who should

be included.

I think it would be unfortunate for us to leave out any group who are just as much exposed to danger as those we have covered and who are doing the same thing in trying to enforce the law and protect society against the criminals. I hope we'll look into that. I do express the hope, too, that this matter will be expedited so that we can get it enacted into law without undue delay.

People's lives are being exposed every moment and this added protection I think is a moral obligation, and possibly a legal obligation too, to the people who are required for the benefit of society as a whole

to take these extraordinary risks.

I hope we can expedite this.

Senator McClellan. Anything further? Senator Hruska. Nothing further.

Senator McClellan. Senator Thurmond?

Senator Thurmond. I have no further questions. Thank you gentleman for your appearance.

Senator McClellan. Thank you.

I do have a statement here of Mr. Quinn Tamm, executive director, International Association of Chiefs of Police, who was expected to be a witness today. I understand he is attending the annual conference of chiefs of police in California today, but he asked that his statement he received and the Chair directs it to be printed in the record.

(The statement of Quinn Tamm follows:)

The following statement and material were subsequently received for inclusion in the record.

STATEMENT OF QUINN TAMM, EXECUTIVE DIRECTOR, INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE, GAITHERSBURG, MD.

Mr. Chairman and members of the Subcommittee on Criminal Laws and Procedures, my name is Quinn Tamm and I am the Executive Director of the International Association of Chiefs of Police (IACP).

The Association is professionally recognized as the official voice of executive

law enforcement throughout the country.

On behalf of the eighty-five hundred police officials who comprise the membership of IACP, I welcome this opportunity to offer testimony in support of Bill 2087, the Police Officer's Benefit Act of 1971.

I would like to extend my apologies for being unable to attend the hearings on

this momentous occasion.

But, during your proceedings, the police chiefs of the nation will be meeting in annual conference at Anaheim, California.

One of the critical issues to be discussed at that conference is the very same problem that faces you today—the indiscriminate slaying of our police officers. The internal security of the United States depends upon the police officer as

its first line of defense.

That perimeter is weakening.

It is being assailed by radical factions of our society who would destroy our democratic system of government through violence.

It is being undermined by the perfidy of public apathy.

And, it is being threatened by legislative indifference and painfully slow court-room machinery.

Since July 1, 1970, when the IACP began operation of its National Police Weapons Center, one hundred sixteen of our nation's police officers have been killed by criminal assaults with weapons.

An additional one thousand nine hundred thirty-nine have been injured. In one incident, the police department of a major city received a telephone report of a woman screaming in a vacant residence.

Police officers who responsed found only a suitcase inside the door of the

residence.

When it was moved, the resulting explosion killed one officer and injured seven others.

The person who committed this murder did not know who his victims would be.

Al he knew, and all that he intended, was that one or more police officers would be blown to death when they responded to the call for help.

The person, or persons, who planned and carried out the crime had one sure factor they could rely on.

They could be sure the police would respond to a call for assistance.

In another metropolitan city, two patrolmen responded to a telephone plea from a woman who reported that her sister was having a baby and needed help. When the officers were unable to get any response at the address given, one walked to the rear of the building.

He heard a shot, and returned to the front to find his partner dead from a high-powered rifle bullet fired from across the street.

It was clearly an ambush with the killing of a police officer—any police officer—as the only motive.

Our files are replete with accounts of tragedies such as this.

In incident after incident, we find further evidence of efforts to remove the police from our streets through terrorism.

Think, for a moment, of the consequences to our society if that should happen. The vanguard position of the police must be recognized and protected. Several pieces of legislation, presently being considered, offer some relief

from the torment of this growing menace.

Among them is the bill now before you for deliberation.

Historically, federal legislation in this regard has been commendable.

On April 19, 1968, Congress passed Public Law 90-291 authorizing dependent's compensation for police officers killed in the line of duty while enforcing federal laws.

On June 16, 1968, Public Law 90–351 amended the April law to allow compensation for non-federal officers killed in the line of duty if the crime was even suspected of being a federal offense.

Compensation under these acts is administered by the Bureau of Employee Compensation of the U.S. Labor Department *if* survivors make application for benefits through a lawyer.

Police officers killed on duty while enforcing other laws receive some coverage

through state and local laws, workmen's compensation, group life insurance, and charitable donations.

Compensation differs in each state and has as many variations as there are

individual agencies.

Benefits under these provisions range from two hundred to four hundred dollars per month for the surviving widow until she remarries and dependent children until they reach the age of majority.

Again, definitions of surviving family and age of majority differ from state to

state and benefits suffer through local interpretations.

Death benefits for service connected fatalities often provide a percentage of the officer's salary.

For first year officers, salaries range from \$4,575 to \$11,112.

These figures are published in the 1970 Comparative Data Report of the IACP's State and Provincial Police Division and the 1970 Kansas City, Missouri, Police Survey of Municipal Police Departments.

Throughout the research into these benefits, however, weaknesses and poor

administration of compensation benefits are obvious.

In many cases, administrative red tape and procedures will tie up funds for years before any actual benefits are realized.

Ideally, a single federally sponsored and administered law will alleviate the

weaknesses in these systems.

The law enforcement community of the United States needs this law.

We must not and cannot, in good conscience, turn our backs on the anguish and poverty suffered by the survivors of law officers slain while protecting our rights and liberties.

Your task carries an awesome responsibility.

I am convinced your decisions will be the right ones.

Thank you.

U.S. SENATE, Washington, D.C., October 29, 1971.

Hon. John L. McClellan,

Chairman, Subcommittee on Criminal Laws and Procedures,

Senate Office Building, Washington, D.C.

DEAR SENATOR McCLELLAN: On October 27 I introduced a bill (S. 2748) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide a \$50,000 death benefit to the survivors of police officers, prison guards and firemen killed in the line of duty.

It is my understanding that the Subcommittee on Criminal Laws and Procedures has already held hearings on similar legislation covering only law enforcement personnel. I hope the subcommittee will consider broadening this legislation to include firemen. In this regard, I also hope the subcommittee will request the views of the appropriate departments and schedule hearings as soon as possible.

I shall appreciate any consideration your subcommittee may be able to give to

this legislation.

With highest personal regards, I am

Sincerely,

J. CALEB BOGGS.

SEPTEMBER 9, 1971.

Hon. James D. Hodgson, Secretary of Labor, United States Department of Labor, Washington, D.C.

DEAR MR. SECRETARY: On September 29, 1971, the Senate Subcommitte on Criminal Laws and Procedures will hold hearings on S. 2087, a bill which, in its present form, proposes to pay through the Law Enforcement Assistance Administration \$50,000 for the dependent survivors of any State or local police officer killed in the line of duty. This insurance program would obviously be related to the provisions of Title 5, U.S. Code. § 8191 et seq, which is administered by the Department of Labor.

In order to aid the Senate in our consideration of S. 2087, would you kindly

prepare for the Subcommitte a report of your experience in administering the benefits under the abovementioned statute, including pertinent statistics, a description of procedure employed in processing claims and a discussion of any problems you have encountered. We also would be glad to hear any recommendations you might want to offer.

It would be helpful if your report is received by the 23d of this month so it can

be properly considered before the hearings.

Sincerely yours,

JOHN L. McClellan, Chairman, Subcommittee.

U.S. DEPARTMENT OF LABOR, OFFICE OF THE SECRETARY, Washington, October 15, 1971.

Hon. John L. McClellan,

Chairman, Subcommittee on Criminal Laws and Procedures, Committee on the Judiciary, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: I am writing in reply to your letter of September 9, 1971, requesting information about the administration of 5 U.S.C. 8191 et seq. for use

in connection with hearings on S. 2087.

The law covering non-Federal law enforcement officers injured or killed as a result of a crime against the United States became a part of the Federal Employees' Compensation Act on April 19, 1968. Since that time the Office of Federal Employees' Compensation has received 99 claims of which 55 were fatalities and 44 were injuries. All but three of these claims have been approved. The unacceptable ones were disallowed because a crime against the United States was not involved in the injury or death.

In general, these claims are processed by having the officer or his survivors submit special forms which provide the information needed to determine whether the injury or death is compensable. The process is essentially the same as with claims filed by Federal employees except that a crime against the United States must be involved and comparable local benefits payable as a result of the officer's

injury or death must be deducted from the compensation.

Our main problem to date has been in determining what constitutes comparable benefits and apportioning them fairly. The local benefits which an injured officer or his survivors may receive vary from one jurisdiction to another. If the officer contributes any part of these benefits we delete a percentage of the benefits based on his contribution and deduct only the amounts paid by the state,

county, city, etc. as the case may be.

We note that Section 702 of S. 2087 states "The gratuity payable to any person under this part is in addition to any benefits to which he may be entitled under any other law." The section is intended to ensure the payment of the \$50,000 gratuity in addition to other benefits, including those payable pursuant to the Act of April 19, 1968, P.L. 90-291 (5 U.S.C. 8191-8193) which authorizes the furnishing of Federal Employees' Compensation Act benefits to law enforcement

officers not employed by the United States.

It should be noted that on October 26, 1970, P.L. 91–509 was passed amending the District of Columbia Poilcemen and Firemen's Retirement and Disability Act to provide payment of \$50,000 in a lump sum to eligible survivors of a D.C. policeman or fireman who dies in the performance of duty. Based on a legal opinion obtained from our Office of the Solicitor, it has been determined that the \$50,000 lump sum payment is a comparable benefit which must be deducted from any compensation which would be due under the April 19, 1968 amendment to the Federal Employees' Compensation Act. The reasoning which supports this finding is based primarily on the fact that the lump sum is a workmen's compensation benefit payable only when death occurs in the performance of duty. Further, the poilcemen contribute nothing to the award. Consequently, the Section 4 deletion of the District of Columbia from the coverage of S. 2087 in effect distinguishes D.C. policemen from other local policemen, since only the eligible dependents of non-D.C. policemen would receive the gratuities plus their Federal Employees' Compensation Act entitlements. It is suggested that this problem needs further study.

We are pleased to provide you with this information on the administration of 5 U.S.C. 8191 et seq. and by the opportunity to offer recommendations on S. 2087. If you need additional information or if we can assist you in any other

way, please let me know.

Sincerely,

		ım per- of wages		Payments		
State	Widow only	Widow plus children	Maximum period	Minimum ·	Maximum	Total maximum stated in law
Alabama	35	65	400 weeks	\$15, or actual wage if less.	\$55 (\$60 after July 1, 1972).	\$22,000 (\$24,000 after July 1,
Alaska	35	65	Widowhood;1 chil- dren until 19 or	\$45 to \$753	\$127.00 3	1972).
Arizona	35	6633	marriage. ² Widowhood; chil- dren until 18 or	\$16.15 to \$30.77	\$80.77 to \$153.85 3.	
Arkansas	35	65	marriage. ² Widowhood; chil- dren until 18 or	\$10	\$49	
California			arriage 3	\$25 4	\$87.50 +	\$20,000 to
Colorado	6633	663%	312 weeks	\$13	\$64.75 to \$78.253	
Connecticut	6633	663/3	Widowhood; chil- dren until 182	\$20	average produc-	24,492.25.
Delaware	50	80	400 weeks; thereafter to children until 13.	\$15	tion wage (\$95.) \$56.25 to \$90	
District of Columbia.	35	6633	Widowhood; children until	\$9.45—widow or dependent widower.	\$36.75 to \$70 3	
Florida	35	60	350 weeks	\$12, or actual	\$56	\$15,000.
Georgia	51	51	400 weeks	percent of ac- tual wage if	\$42.50	\$17,000.
Hawaii	50	663/3	Widowhood; children until 18.2	less. \$15, or average wage if less— widow widower.	\$84.38 to 112.50 3	\$35,100.2
Idaho	45	55	400 weeks; thereafter to children until 18.2 (500 weeks— Eifective Jan. 1, 1972).	\$15 to \$20 5	\$25 to \$40 5	\$16,000.
Illinois	65	80	Widowhood; 6 children until 18 2	\$32.50 to \$49 3	\$61 to \$71 3	\$18,000 to \$25,000 *
Indiana	60	60	500 weeks	\$21, or average	\$60 to \$75	\$30,000
lowa	663/3	6633	300 weeks	wage if less. \$18, or actual wage if less.	46 percent of average weekly wage (\$59).	
Kansas			children until 18 ³.	No statutory minimum in the case of partial dependents; no weekly minimum for total dependents but a minimum total of \$2,500.	\$56 plus \$4 for each dependent minor child, not exceeding five children.	\$18,500 to \$25,000 \$
Kentucky			400 weeks 7	25 percent of 85 percent of the State's average weekly wage (\$25)	50 percent of 85 percent of the State's average weekly wage (\$51).	
Louisiana Maine	32½ 66¾	65 6634	cimaren until	\$12.50, or actual \$18	\$49	
Maryland	663/3	€6⅔	18. ² 500 weeks	\$25, or actual wage if less.	wage (\$78). 66%% of State's average weekly wage (\$70).	\$27,500.
Massachusetts			Widowhood; children until 18.8	Same as maxi- mum.	\$45, plus \$6 for each child.	\$15,000.8

See footnote at end of table.

		um per- of wages		Payments	per week	
State	Widow only	Widow plus children	Maximum period	inimum	Maximum	Total maximum stated in law
Michigan	669%	663/§	500 weeks; there- after to children until 21.	\$27 to \$39 3	\$79 to \$102 3	
Minnesota	40	66¾	Widowhood; children until	\$17.50, or actual wage if less.	\$80	\$35,000.
Mississippi Missouri		6634 6634	450 weeks	\$10 °	\$70	\$15,000. \$22,500.
Montana Nebraska	50 662/s	66 ² / ₈ 66 ² / ₈	600 weeks Widowhood; other de- pendents, 350 weeks.	\$34.50 \$40, or actual wage if less.	\$37 to \$60 3 \$62	
Nevada	. 50	80	Widowhood; children until	No statutory minimum.	\$38.65, plus \$11.60 for each child.	
New Hampshire	(10)	(10)	341 weeks	\$30 or average wage if less.	\$92	\$31,372.
New Jersey	. 50	70	Widowhood; 11 children until 18.	\$15	% of State's average weekly wage (\$95). (\$101. as of Jan. 1, 1972).	
New Mexico	. 40	60	500 weeks	No statutory min- imum.	\$48	\$28,500.
New York	. 40	662/8	Widowhood: 1 children until 18.2	\$12 to \$20 3	\$48 to \$80 3	
North Carolina North Dakota	60	60	350 weeks	\$20_ \$25, plus \$7 for each child.9	\$56 \$25, plus \$7 for each child.9	\$20,000.
Ohio	66%	662/3		\$49	\$77	\$24.000.3
Oklahoma						\$14,000 to \$25,000.3
Oregon			Widowhood; chil- dren until 18	Same as maxi- mum ²	\$25,32 to \$94.62 3_	
Pennsylvania	- 51	663/8	Widowhood; chil- dren until 18.	\$25.50 to \$33.33	\$39 to \$60 3	
Puerto Rico	_ 50	85	Widowhood; children until		\$28.85 9	
Rhode Island	- 66 ² /3	663/3	500 weeks	. \$30	60 percent of State's average weekly wage, (\$74.96), plus \$6 for each dependent.	(\$74.96).
South Carolina South Dakota		60	350 weeks Special sum to	\$5	\$50 (See column 3)	\$12,500. \$25,000 to
South Danota			widow plus \$25 for each child until 18.12			\$35,000.*
Tennessee	_ 50	65	Widowhood; children until 18.2	·	\$55	
Texas Utah		60 60	360 weeks 312 weeks	\$12 \$29	\$49 \$54 to \$79	\$16,848 to
Vermont		60	Widowhood; children until	1/4 of State's average weekly wage (\$33).13	½ of State's average weekly	\$24,648.3
Virginia Washington	- 60 - 60	60 70	18.2. 13 400 weeks Widowhood; children until 182	wage (\$33). ¹³ \$14 \$42.69-\$74.31 ³ °_	wage (\$65).13 \$62.00 \$111.92 ° (45 percent of State's average weekly wage).	<u>.</u> \$24,800.
West Virginia			Widowhood; children until	Same as maxi- mum.	weekly wage). \$36.92, plus \$11.54 for each child.	
Wisconsin Wyoming		(14)	400 weeks Widowhood; children until 18.2	\$10 \$30	\$56.43 14,	\$22,572.14 \$13,000-\$23,000.3~

See footnotes at end of table.

MINIMUM AND MAXIMUM BENEFITS FOR WIDOWS AND CHILDREN IN DEATH CASES—Continued

State	Maximum per- centage of wages			Payments per week		
	Widow	Widow plus children	Maximum period	Minimum	Maximum	Total maximum stated in law
United States: Fed- eral employees.	45	75	Widowhood; children until 18.2	\$42.38	\$454.66 15	
Longshoremen	35	6633	Widowhood; children until 18.2	\$9.45	\$36.75 to \$70 ³	

1 The term "widowhood" is used to mean the period until the death or remarriage of the widow. (In some cases, the

1 The term "widowhood" is used to mean the period until the death or remarriage of the widow. (In some cases, the same benefits are paid to a dependent or invalid widower.)

2 May be continued beyond age 18 (21 in Missouri) if physically or mentally incapacitated or incapable of self-support. In New York, payments may be continued beyond 18 if dependent child is totally often or mentally or physically disabled and whose disablement is total and permanent. In Hawan, payments may be continued to unmarried, full-time students until 22 the dollar maximum does not apply to children under 18, nor to unmarried children over 18 if they are incapable of self-support, nor to an unmarried widow who is physically or mentally incapable of self-support. Payments may be continued to full-time students until 22 in West Virginia; full-time students regardless of age in Vermont; students up to age 25, while studying, in Puerto Rico; full-time students until 23 under the Federal Employees' Compensation Act, children in school until age 21, in Kansas; full-time high school student until 19, in Washington.

3 According to number of dependents

4 In actual practice under its discretionary power, the Workmen's Compensation Appeals Board orders death benefits paid at the maximum weekly rate (\$87.50).

⁵ Idaho: \$20 and \$30 if dependent widow only; \$20 and \$40 if dependent widow with children: \$15 and \$25 if no dependent widow.

(Illinois: Under certain circumstances, upon remarriage of childless widow remaining compensation payments shall be reduced by 50 percent. Benefits not to exceed the average weekly earnings except to the extent of the minimum compensation rates Kentucky: Disability payments already made to be deducted from death benefits payable.

* Massachusetts: Benefits continue to children until 18 or over 18 if incapacitated, and to widows during periods they

are not fully self-supporting. In addition, lump-sum payment at death of worker: In Mississippi, \$100 to widows; in North Dakota \$300 to widow and \$100 for each dependent child up to a maximum of \$600; in Washington \$800; in Puerto Rico, \$500 to widow and \$50 for each dependent child up to a maximum of \$1,100.

New Hampshire: Benefits set in accordance with a "wage and compensation schedule."

- 11 New Jersey: Any earnings from employment by the w dow after 450 weeks of compensation have been paid shall be
- deducted from the compensation thereafter payable to her.

 South Dakota: Death benefits to the widow are set at a sum equal to 5 times the annual earnings of the employee, but not less than \$10,000 or more than \$25,000, plus \$25 a month for each child until he is 18 years of age, up to an aggre-

put this test in a topout of more than 235,000.

13 Vermont: Benefits payable to widows until age 62 (if then eligible for social security benefits), or until remarriage or death; but in no event shall benefits be paid tor less than 330 weeks except in case of her death or remarriage.

14 Wisconsin: Additional benefits payable from Children's Fund to the widow for children under 16 years of age (13). percent of the widow's benefit is the weekly or monthly allowance made for each dependent child), or for children over 16 if mentally or physically incapacitated.

15 Federal employees: Based on 75 percent of the pay of specified grade levels in the Federal civil service.

MINIMUM AND MAXIMUM BENEFITS FOR PERMANENT TOTAL DISABILITY

State	Maximum percentage of wages		Payments per week		
		Maximum period	Minimum	Maximum	Total maximum stated in law
Alabama	1 55-65	400 weeks. (For specific types of disability, 550 weeks.)	\$15, or actual wage if less.	\$55 (\$60 after July 1, 1972).	\$22,000 (\$24,000 after July 1, 1972).
Alaska	65	Duration of dis- ability.	\$25, or actual wage if less.	\$82.55	
Arizona	65	Life	\$30, if worker is 21 years of age or older.	\$150	
Arkansas California	65 2 61¾	400 weeks; thereafter 60 percent of average weekly earnings at time of injury, maximum \$48.46 for life.	\$10 \$20 per week for 400 weeks, and thereafter life pension of \$18.46 per week.	\$49 \$52.50 per week for 400 weeks, and thereafter life pension of \$48.46 per week.	
Colorado Connecticut	6634 6634	Life 3		\$64.75 663/3 percent of State's average production wage (\$95 to \$142).1	(°)
Delaware	663/3	do	\$25, or actual wage if less.	\$75	

MINIMUM AND MAXIMUM BENEFITS FOR PERMANENT TOTAL DISABILITY—Continued

	Maximum		Payments	per week	T-4-1
State	percentage of wages	Maximum period	Minimum	Maximum	Total maximum stated in law
District of Colum- bia.	6634	do	\$18, or average wage if less.	\$70	
Florida	60	do	\$20, or actual wage if less.	\$65	
Georgia	60	400 weeks	\$15, or actual wage if less.	\$50	\$18,000.
Hawaii	6633	Duration of dis- ability.	\$18	\$112.50	(4).
Idaho	1 60	400 weeks; 5 there- after \$26 per week (\$33 if de- pendent wife) plus \$8 to \$48 for children, for dur- ation of disability.	\$26 (\$33 if dependent wife) to \$81 1, [45 percent of State's average weekly wage—Effective Jan. 1, 1972].	\$43 to \$99 to (See Col. 3) [60 to 90 percent of State's average weekly wage—Effective Jan. 1, 1972].	
IllinoisIndiana	1 65 to 80 60	Life	\$31.50 to \$491\$21	\$55 to \$681 \$60 to \$751	⁽⁶⁾ ₇ \$30, 000
lowa	66 ² / ₃	500 weeks	\$18, or actual wage if less.	46 percent of average weekly wage (\$59).	
Kansas Kentucky		415 weeks	\$7 25 of 85 percent of the State's average weekly wage (\$25).	the State's average wekly wage (\$56).	\$23, 240
Louisiana	65	500 weeks	(\$25). \$12.50, or actual wage if less.	\$49	
Maine		Duration of disability.	\$18	% of State's average weekly wage (\$78).	
Maryland	66%	do	\$25, or average wage if less.	662/3 percent of State's average weekly wage (\$85.00).	\$45, 000
Massachusetts	66%	do	\$20	\$70, plus \$6 for each total de- pendent; aggre- gate not to exceed worker's average	
Michigan	662/3	Duration of dis- ability.10	\$27 to \$421		
Minnesota	663/9	Duration of dis- ability.	\$17.50, or actual wage of less.	\$80	(13)
Mississippi Missouri	662/3 662/3	450 weeks 300 weeks, there- after 50 percent of wages, maxi- mum \$50 for duration of dis- ability.	\$10 \$16 (\$20 after 300 weeks).	\$40\$60	\$15,000
Montana Nebraska	1 50 to 6625 6634	500 weeks ¹³ 300 weeks; thereafter 45 percent of wages, maximum \$47 for duration of disability.	\$40, or actual wage if less, first 300 weeks; thereafter \$36 or actual wage if less.	\$62 (See Col. 3)	
New Hampshire	(14)	Life	\$43.50 to \$60.23 1 \$30, or actual wage	\$62.40 to \$86.40 1 \$92	
New Jersey	6634	ability. 450 weeks; under certain conditions benefits paid for life. ¹⁵	if less. \$15; after 450 weeks may be \$5.15	% of State's average weekly wage (\$95),15 (\$101 as of Jan. 1, 1972).	
New Mexico	60	500 weeks	\$28.50, or actual wage if less.	\$57	\$28,500
New York	6634	Duration of dis- ability.	\$20, or actual wage if less.	\$80	
North Carolina	60	400 weeks; 500 weeks for 2 in- juries in same employment, (Payable for life in certain cir- cumstances. ¹⁸	\$20	\$56	16 \$20, 000

See footnotes at end of table.

MINIMUM AND MAXIMUM BENEFITS FOR PERMANENT TOTAL DISABILITY-Continued

	Maximum percentage		Payments per week		- Total maximum
State	of wages	Maximum period	Minimum	Maximum	stated in law
North Dakota	80	Duration of dis- ability.	Same as maximum	55 percent of State's average weekly wage (\$64), plus \$5 for each de- pendent child, but not to exceed worker's net wage after taxes.	
Ohio	66%	Life	wage if less	\$77	
Oklahoma	66%	500 weeks	\$20, or actual wage	\$50	
Oregon	55	Duration of dis- ability.	\$40, or 90 percent of actual wage, whichever is less.	\$50 to \$62.50 1	
Pennsylvania	66%	do	\$35.00, or 90 per- cent of actual wage if less, but in no event less than \$22.	\$60	
Puerto Rico Rhode Island	66% 66%	do Duration of disa- bility.18	\$11.54 \$30	\$28.85- 60 percent of State's average weekly wage (\$74.76), plus \$6 for each dependent; aggre- gate not to exceed worker's average weekly wage.	(18)
South Carolina South Dakota	60 66%	500 weeks	\$5 \$27, or average	\$50	\$12,500
Tennessee	6 5	550 weeks (after 400 weeks maxi-	wage, if less,	\$55	\$22,000
		mum reduced to \$15 weekly).			
TexasUtah	60 60	401 weeks	\$12 \$29 to \$54 1	\$49 \$54 to \$79 1	(19)
Vermont	663/3	330 weeks ⁵	weekly wage (\$33), or average wage if less.	1/2 State's average weekly wage (\$65).	
Virginia Washington	60 60 to 65	500 weeks Duration of dis-	\$14_ \$42.69 to \$81.23 1	\$62 \$111.92	\$24,800
West Virginia	6634	ability. Life	\$35	55 percent of State's average weekly wage (\$77.55).	
Wisconsin Wyoming	70	do	\$14 Same as maximum	\$79	\$17,500 to \$27,500, 20
Jnited States: Federal em- ployees.	1 6634 to 75	Life	\$70.63, 21 or actual wage if less,	\$454.66 21	
Longshoremen	6634	Duration of disability_	\$18, or average wage if less.	\$70	

According to number of dependents. In Idaho, Oregon, Washington, and Wyoming, according to marital status and number of dependents. Connecticut, \$5 for each dependent child under 18, up to 50 percent of the basic weekly benefit. Under the Federal Employees' Compensation Act, the 75 percent of wages is contingent upon the existence of a statutory dependent.

occupational diseases

4 Hawaii: After \$35,100 has been paid, compensation at the same rate is paid from a special fund.

5 In case total disability begins after a period of partial disability, the period of partial disability shall be deducted from

5 In case total disability begins after a period or partial disability, the period of partial disability begins after a period or partial disability states from the week specified.

6 Illinois: After \$18,000 to \$25,200, depending upon number of dependents, has been paid, a pension for life is provided 7 Indiana: After \$30,000 and 500 weeks, further payments of compensation may be paid for an indefinite period from a special fund,

6 Kentucky: If period of total disability begins after a period of partial disability, the period of partial disability shall be deducted from the 425 weeks.

9 Law expressly provides that such payments are in addition to payments for temporary total.

10 Michigan: Law states that the conclusive presumption of total and permanent disability in certain cases shall not extendbeyond 800 weeks, but after that time the question of permanent total disability is determined in each case in achanceco rwith the facts.

" Michigan: The maximum benefit rate is adjusted annually on the basis of a \$1.00 increase or decrease for each \$1.50 increase or decrease in the State's average weekly wage,

dependent.

2 The California law provides for 65 of 95 percent of actual earnings, or 61% percent.

3 Colorado: If periodic disability benefits are payable to the worker under the Federal OASDI, the workmen's compensation weekly benefit shall be reduced (but not below zero) by an amount approximating one-half such Federal benefits of such week. If disability benefits are payable under an employer pension plan, the workmen's compensation benefits shall be reduced in an amount proportional to the employer's percentage of total contributions to the plan.

Colorado does not limit total maximum for disability from accidental injury, but sets a maximum of \$20,266.75 in case of

12 Minnesota: After \$25,000 is paid, benefits paid by any government disability program credited against workmen's compensation benefits, if such disability benefits are accasioned by the same injury. Credit also applies to any old age and survivors' insurance benefits.

18 Montana: In hardship cases, involving loss or loss of use of both hands, arms, feet, legs, or eyes, the Board may order

compensation for such further period as it decides proper.

14 New Hampshire: Benefits set in accordance with a "wage and compensation schedule."

15 New Jersey: After 450 weeks, if worker has accepted such rehabilitation as may have been ordered by the Rehabili-

15 New Jersey: After 450 weeks, if worker has accepted such rehabilitation as may have been ordered by the Rehabilitation Commission, further benefits may be paid during disability, amounting to his previous weekly compensation payment diminished proportionately as the wages he is then able to earn bear to the wages received at the time of the accident If his wages equal or exceed such former wages, his benefit rate shall be reduced to \$5 a week.

16 North Carolina: In cases in which total and permanent disability results from paralysis resulting from an injury to the brain or spinal cord or from loss of mental capacity resulting from an injury to the brain, or in cases in which total permanent disability results from the loss of both hands, or both arms, or both feet, or both legs, or both veys, or any two thereof, compensation shall be paid during the life of the injured employee, without regard to the 400 weeks or to the \$20,000 maximum. \$20,000 maximum.

1º Ohio: For persons previously awarded permanent total disability benefits, supplemental payments may be made from the Disabled Workmen's Relief Fund to bring payment up to \$56.08 is 18 shode Island: After 500 weeks, or after payment of \$32,500 for total disability, payments to be made for duration of

total incapacity or for life from second-injury fund.

19 Utah: After payment of \$24,648 by the employer or carrier, a worker who has cooperated with the Division of Vocational Rehabilitation but who cannot be rehabilitated receives from the combined injury fund 45 percent of wages, for eriod of disability, weekly maximum \$54.
20 Wyoming: As to the allowance for the children, the law states: '... there shall be credited to the account of each of such children . . . a lump sum equivalent to \$30 per month [\$6.92 per week] until the time when each of said children would become 18 years of age; provided that the lump sum credited to the account of all said children shall in no case exceed \$10,000." The total maximum of \$27,500 shown on the table includes the \$10,000.
21 Federal employees: Based on 75 percent of the pay of specified grade levels in the Federal civil service.

Senator McClellan. Anything further?

If there is nothing further, the committee will stand adjourned. (Thereupon, the hearing was concluded at 11:45 a.m.)

VICTIMS OF CRIME

TUESDAY, NOVEMBER 30, 1971

U.S. Senate,
Subcommittee on Criminal Laws and Procedures,
on the Committee on the Judiciary,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:40 a.m., in room 3302, New Senate Office Building. Senator John L. McClellan (chairman) presiding.

Present: Senators McClellan, Kennedy, and Thurmond.

Also present: Senator Mathias.

Also present: G. Robert Blakey, chief counsel; Malcolm D. Hawk, minority counsel; Elizabeth E. Bates, Frank P. Cihlar, and Kenneth A. Lazarus, assistant counsel; and Mabel A. Downey, clerk.

Senator McClellan. The committee will come to order.

The hearings today are to supplement hearings held before this subcommittee on September 29 of this year to consider S. 2087, a bill to provide a gratuity of \$50,000 to the survivors of police officers killed in the line of duty.

In my opening statements at those hearings I quoted statistics which indicate the alarming extent to which law enforcement officers expose their very lives in every phase of their work. And we have seen that at an increasing rate policemen have become a symbolic target of violent lawbreakers. The result is that all people suffer, since such constant danger must naturally affect the work and recruitment of able men in the field of law enforcement.

S. 2087 offers one possible approach to dealing with the plight of law enforcement officers and their families. Of the six other bills we are considering today, three of them concern other approaches to aiding the police officer. S. 33, introduced by Senator Kennedy, would authorize the Attorney General to provide a group life insurance program for State and local government law enforcement officers. S. 1946, introduced by Senator Humphrey, would authorize the same sort of program but is drafted to include firefighting officers. S. 2748, introduced by Senators Boggs, Dole, Hollings, Metcalf, Moss, and Roth, again has the same basic provisions but is specifically drafted to include prison guards. We will want to look at the differences between these bills and think about exactly whom such an insurance program should cover. We will also want to consider what the relationship would be between such a program, existing compensation for law enforcement officers, and the provisions of S. 2087.

The other three bills deal with the person to whom a crime is most tragic and devastating—the victim. It is true that the victim has been too often forgotten. We try to apprehend and punish the criminal.

But there is the victim, who may suffer permanent physical or material damage, with no compensation because a civil suit against the criminal would be useless since the criminal could not pay damages. Today we will consider these bills which offer possible means of remedying this problem. S. 16, introduced by Senator Hruska and myself, would provide civil remedies to victims of activities prohibited by title IX of the Organized Crime Control Act of 1970. S. 750, introduced by Senator Mansfield, would provide for the compensation of persons injured by certain criminal acts, to make grants to States for the payment of such compensation. S. 2426, introduced by Senator Bible, would provide a civil action for damages resulting from violations of section 659 of title 18, United States Code; that is related to crimes involving property in interstate or foreign commerce.

Senator McClellan. Most legislation passed to stop the increasing flood of crime is directed toward dealing with the criminal himself. The common element of the bills before us today is that they concern the individuals who face the criminal—the law enforcement officer and the victim. Crime is not just the annoying antisocial behavior of an individual. Crime is a terrifying injury to society as a whole and to the individual. Crime injures the mind and spirit and body, and destroys the lives for which many people have worked so hard. Crime exposes law-abiding citizens to constant dangers and requires law enforcement officers to risk their lives daily. We must stop the criminal. But we also must consider means of dealing with the consequences, the aftermath of crime. We must consider how to help the people who have literally been held at gunpoint for nothing they have done, but because someone else refuses to accept the responsibility of getting the things he wants by any way other than forceably taking it from another.

Let a list of the bills to which I have referred be printed in the record at this point. [The text of the bills, together with agency reports, appear at pp. 3–28]

S. 16, to provide civil remedies to victims of activities prohibited by title IX of the Organized Crime Control Act of 1970. [Senators McClellan and Hruska]

S. 33, to authorize the Attorney General to provide a group life insurance program for State and local government law enforcement officers. [Sen. Kennedy]

S. 750, to provide for the compensation of persons injured by certain criminal acts, to make grants to States for the payment of such compensation. [Sen.

mansheld]

S. 1946, to authorize the Attorney General to provide a group life insurance program for State and local government law enforcement and firefighting officers. [Sen. Humphrey]

cers. [Sen. Humphrey]
S. 2087, to provide benefits to survivors of police officers killed in the line
of duty. [Sens. McClellan and Hruska.] Also Amdts. Nos. 467 and 468. [Sen.

Thurmond]

S. 2426, relating to crimes involving property in interstate or foreign commerce to provide a civil action for damages resulting from violations of section 659 of title 18, U.S.C. [Sen. Bible]

S. 2748, to provide benefits to survivors of police officers, prison guards, and

firemen killed in the line of duty. [Sen. Boggs, et al.]

Senator McClellan (continuing). We have with us this morning our very distinguished majority leader, sponsor of S. 750, a bill which is included in these hearings.

I want to welcome our distinguished majority leader and I take this occasion to say that from the beginning, throughout the history of this subcommittee, we have had the cooperation and I believe in almost every instance the support of the majority leader in the enactment of the bills that this committee has reported to the Senate. We are very grateful to him. He has a very deep interest in law enforcement and in improving our criminal procedures. We welcome him today and are glad to have before us the measure he has introduced. Senator Mansfield?

STATEMENT OF HON. MIKE MANSFIELD, A U.S. SENATOR FROM THE STATE OF MONTANA

Senator Mansfield. Thank you, Mr. Chairman, members of the committee.

I appreciate very much this opportunity to appear before you today. I do so in behalf of the countless thousands of innocent victims of crime. I do so as well out of a deep personal concern for the effects of violence upon society today. With S. 750, I have sought to revive the concept—it is not original with me—of compensating victims of violent crime. In doing that, I have approached the issue, not as a lawyer, which I am not, nor as a student of law. I have endeavored rather to view the matter as one who is deeply concerned that recent efforts to stimulate new approaches to stemming and even reversing the ever-rising rate of crime and violence have focused too little—far too little—attention upon the innocent victims of crime.

By no means, Mr. Chairman, do I wish to diminish your superb record against criminal elements. No man, inside the Senate or out, has devoted more energy and effort to that end. Thanks in large part to you, Mr. Chairman, the U.S. Senate in the last Congress passed 18 or more anticrime proposals. Societies, nevertheless, have suffered the ravages of violent crime and ours has been no exception. Chronicled daily in the press are crimes of the most heinous nature. To meet this situation it seems to me that there has been created a system of justice that too often presents an abstraction of the State versus the criminal, which in turn has left the victim unappeased, the government bogged down in court and the criminal becoming more expert at his trade.

To be sure, the accused is prosecuted for his crime, and if found guilty, punished by the State. But the victim's sole recourse, within our Federal jurisdiction, is to seek damages by instituting a civil action against the guilty criminal. At best, this has been an inadequate remedy, considering the financial condition of most perpetrators of violent crime. In fact, a recent survey of victims of violent crimes indicates a bare 1.8 percent of the victims ever collected anything from their attackers. Yet 74.2 percent of them suffered economic loss, not to mention the physical damage and suffering involved. And as the President's Commission on the Causes and Prevention of Violence has documented so well, this alarming increase in the rate of violent crime has persisted and with it, no doubt, the great disparity between those victims who are compensated and those who are not.

At the same time, the victims of this violence have been virtually separated from the crimes. That is a matter of policy. It is a policy

that abrogates any social contract that is thought to exist between the citizen and his society. The citizen pays his taxes, he obeys the laws imposed by society and in return he expects—some would argue on a contractual basis—to be protected by those laws from illegal acts which result in injury and suffering to himself. In short, if society fails in its efforts to provide basic protection then the social contract has been breached; the citizen has suffered. To him there is no particular nonpunishable recourse available other perhaps than overt apathy—witness the case of Kitty Genovese in New York some years ago, when some 32 people looked on. And what happened to her? She was killed.

Witness the 10-year old Puerto Rican girl in Rochester just the

other day. And what happened to her? People just looked on.

And the six young black girls around the District of Columbia, where something is being attempted through the police department, through the Federal authorities, and through the offering of a reward by the Washington Star.

Reflective of this gross apathy, in my judgment, has been the significant increase in the number of cases where victims simply refuse to become involved—not as witnesses, not to assist the prosecution, not in

preventing the crime, not in assisting a police officer.

In my judgment, this overt apathy or nonparticipation by citizens in regulatory functions of society is about to become a most critical and pressing problem. Today, citizens must recognize that through their plain apathy, they are committing crimes against society. To combat such an attitude, it is my view that we—the elected representatives ought to become more cognizant of the need for legislation that would

encourage, and even reward, acts that are socially responsible.

Another aspects of the problem concerns the Government's task of rehabilitating criminals. How much violent crime, it should be asked, is committed at the hands of the recidivist who has been released upon society from a penal institution that served only to mold him into a more hardened and bitter criminal than he was when first incarcerated? His innocent victim has been doubly cheated by society. Not only has it failed to protect him with sufficient police and safety facilities, its penal institutions have actually created a more serious threat to law and order by serving as graduate schools for criminals.

It has been said that the institutions of justice have become more concerned with the protection of the rights of the criminal than with the need for law and order in society. To an extent, I would agree. But I feel the major emphasis is misplaced. To me, a major liability with the present system of criminal justice is its utter failure to consider the innocent victim. This is the whole basis for my interest today in reviving the concept of victim compensation and I believe that the victim is entitled to just as much guarantee under the Constitution as is the criminal. But unfortunately, it is the criminal who gets the guarantee and the victim most often not.

As a matter of public policy, social compensation programs are not revolutionary notions by far. Indeed, there is great similarity in rationale and origin between notions of compensating workers, assuring them of a reasonably safe place in which to work, and compensating victims of crime, assuring them a reasonably safe society in which to live. Just as the worker was historically frustrated in his attempts to recover damages, so, too, has the victim of crime today been frustrated. In many cases the offender is not apprenhended. When he is, he is often destitute. Further, present penal methods do not offer the offender an ability to make restitution because he cannot earn a gainful

living.

Along with the worker compensation concept, other steps have been taken in the past 30 years or more which manifest society's abandonment of its laissez-faire attitudes when facing matters of collective community need. Social security and medicare; aid to dependent children, assistance for the handicapped, the aged and the blind, notions of no-fault insurance and national health insurance all reflect a recognition of collective responsibility. Fulfilling this responsibility with regard to victims of crime is no easy task. Senate bill 750 attempts to face the problem. If adopted at the Federal level, however, it would by no means represent the first such step taken in modern times. Indeed, within the last 10 years, New Zealand, England, particular provinces in Canada and Australia, have all enacted governmental programs of compensation for innocent victims of violent crimes. In addition, the States of California, Hawaii, Nevada, Maryland, Massachusetts, New York, and most recently, New Jersey, all have enacted some type of compensation program. I have asked some of these States for reports on their experience with the program and with your permission, Mr. Chairman, submit for the record the responses I have received.

Senator McClellan. They may be inserted in the record at the con-

clusion of today's testimony. (See pp. 172–296.)

Senator Mansfield. Though I am not wedded to any particular procedure for achieving the task of recognizing the need for compensating the criminal victim, the main features of my bill do deserve some explanation. First of all, a three-man Violent Crime Compensation Commission would be created. The Commission would compensate innocent victims for injury or death resulting from 18 possible offenses. The 18 offenses could be grouped generally under the headings of homicide, assaults, and sexual offenses of violence, all occurring within the Federal criminal jurisdiction. There would be a maximum limit of \$25,000 for each award.

It would be the Commission's duty to examine the evidence presented both to determine what level of compensation should be granted and whether, in fact, the person making the claim is truly an innocent

victim.

With some limitation, the Commission could order the payment of compensation to or on behalf of the injured victim, to the person responsible for his maintenance, to his dependents or close survivors. The authority of the Commission to award compensation would not be dependent on prosecution or conviction of the accused for the offense giving rise to the injury. Obviously, however, the crime would have to be established.

As far as losses covered are concerned, the proposal would provide compensation for expenses incurred as a result of the victim's injury or death, for the loss of his earning power, for pain and suffering, and for any other direct, crime-related losses which the Commission deems

reasonable.

Compensation would be denied in cases where the victim was living with the offender or in any case where the Commission finds that unjust enrichment would result to or on behalf of the offender.

Decisions and orders of the Commission would be reviewed by the

appropriate court of appeals.

A most important provision would allow the Commission, where possible, to recover over against a convicted assailant the amount of any awards granted on account of his crime.

There is also provided a grant program which would encourage States to establish crime compensation systems within their individual

criminal jurisdictions.

With these hearings, Mr. Chairman, and the study that undoubtedly will follow, I am certain many of the features of this proposal will undergo close examination and undoubtedly changes for the better will be made. Merging the State programs under the existing Law Enforcement Assistance Administration is one suggestion that deserves merit. Improvement, may I say, is an essential purpose of the legislative process.

May I say, too, that I am pleased President Nixon's recommendations for a special compensation program for survivors of policemen killed in the line of duty are here being considered along with S. 750.

One final note. Before this Congress adjourns in 1972, it is my hope that the legislative process will have been completed and that there will be established on the Federal level the principle that violent crime is a three-party affair which includes the victim, the criminal and the State. In the last 100 years, the criminal and the State have dominated the arena of crime and punishment to the injurious exclusion of the victim. To revive at this time the proposition that citizens are entitled to protection, and failing such protection, that citizens are entitled at least to be compensated for the losses they suffer from violent criminal action, can only serve to strengthen the social fiber of our Nation.

Thank you very much, Mr. Chairman, and I ask your permission that I may insert in the record following the other insertions an article which appeared in the Houston Law Review for September 1971, entitled "Justice for the Victims of Crime." [See p. 297.]

Senator McClellan. Well, thank you very much, Mr. Leader.

I am in substantial agreement with your thoughts and presentation. I support the general concept of compensation for the innocent victims of criminal assaults. But as I followed your testimony and reflected upon conditions that prevail in America today, it is certainly a sad commentary on the state of affairs in America with respect to law enforcement and the protection of the citizens in their lives and property. The condition that prevails today, in my judgment, is a reproach upon our civilization, is a reproach upon our system of government, and is a reproach upon our capacity, our ability, and our willingness to enforce the law to protect human lives and to protect people in the right to the possession of property.

Law enforcement, I know, is not a very popular term in some quarters. If you mention law enforcement, and say you are for law and order, why, it carries with it in some quarters a reaction or charge of ultraconservatism, maybe—that is the mildest term I can think of. But I think that America's society can't long survive unless this trend

in violent crime is reversed.

I say that with some feeling. I have occupied this position with—

sat across the table here and chaired this committee—not this one, but the Permanent Subcommittee on Investigations, investigating organized crime. We have had there at the witness table some of the worst criminals in the country: dedicated, organized criminals, parasites upon society and upon human suffering, and it is just unthinkable that they can commit crime repeatedly and be returned to society unreformed and permitted to engage again in the pursuit of their nefarious activities.

Sometimes I wonder if our courts and their interpretations have created or permitted to grow up in our system of jurisprudence so many technicalities to guard and protect the criminal and his rights that we have forgotten that society has a right to live, too, that innocent victims of those who commit the assault—kill them, injure them, maim them, cripple them—that they have rights to live, rights to be

safe in the pursuit of their peaceful objectives.

I notice here, it struck me, the innocent victims. I would be unwilling to pay compensation to a gangster who is killed or caused to be killed by his own leader, possibly, some of his own people, who thought maybe he had betrayed them. I would not regard them as innocent victims. And there are other circumstances where I would not want to see the taxpayers burdened.

But this has become almost necessary, this compensation, because of the lack of ability, capacity, or willingness to enforce the law, or the faculty system, the faults that we may have in our system, that

make it impossible to enforce the law.

I think it is one of the greatest internal dangers in America today. And that danger may be equal to or even greater than any external

threat to our survival.

I thank you very much, Mr. Leader. I am glad to know of your deep feeling and concern. I assure you this measure, along with some others that we have here, will receive the early attention of the committee and we hope to report out some measures early, at least, in the next session of Congress.

Thank you very much. Senator Thurmond?

Senator Thurmond. Thank you, Mr. Chairman. I think the majority leader has done a great service in his appearance here and the splendid statement he has presented. I have not had a chance to read his bill yet. I was just wondering if his bill fixes any definite amount to any particular type of injury, or, if not, how is the amount determined?

Senator Mansfield. The amount is determined on the extent of the injury and is not to exceed \$25,000. But may I say, Senator Thurmond, that this bill is just embryo in its nature. I would anticipate that this committee, with its experience in this area, would perhaps report out a bill of its own which would cover all of the questions which this bill of mine raises, because it is far from perfect.

May I say that it is not original with me, that other Senators before me have attempted to achieve the same objective, to give some consideration to the innocent, who we think have just as much in the

way of constitutional rights as the criminal.

Senator Thurmond. Would the victim bring a suit in his or her name if he or she survives? Just what would be the nature?

Senator Mansfield. It is brought to the attention of the three-man board which in turn would make an adjudication. If there were any appeal, it would be taken to the court of appeals.

Senator Thurmond. Would there be a board in each State to hear the matters or one board in Washington, D.C., to hear the matter upon

statements and affidavits?

Senator Mansfield. That is right, the proof would have to be furnished. If it was a case—and this is not as far fetched as it may sound—of two people living together and as a result of a crime, the other person, the criminal, could perhaps be aggrandized, that would not be forthcoming. So it would take the most meticulous research, but at least it would hold out some degree of hope, little though it is, to the victims of crime.

I cannot reconcile myself to what is happening in this country today in the case of a Kitty Genovese, which I mentioned earlier, in New York City some years ago, and the case of this 10-year-old Puerto Rican girl in the vicinity of Rochester just in the past several days, nor in the case of the six black girls who have been assaulted and beaten and killed in the area around Washington, D.C., just within the past several weeks.

Senator Thurmond. I yield to the distinguished Chairman.

Senator McClellan. Go ahead. I just wanted to ask you one question.

Senator Mansfield. That is all I have to say.

Senator McClellan. I agree with you on the apathy of our citizens. But I think that can be attributed in great measure to their lack of confidence in the ability of our system to enforce the law. They are afraid.

Senator Mansfield. That is right.

Senator McClellan. They are afraid to get involved and until they can be assured that they will be protected when they come forth and give the testimony that they know or when they intervene to try to protect life, or to know that they can be protected, that apathy is likely to continue. Therefore, we need to enforce the law so that a citizen will feel safe when he knows the law is being violated, that he can go and report and have confidence and feel assured that he will be protected in the performance of his citizenship duty.

Senator Mansfield. And, Mr. Chairman, may I say that one thing we ought to do, too, is that we quit denigrating the policemen of this country, that we pay them decent salaries, and recognize the dangers that they undergo in behalf of the rest of us. Of course, there are people who raise their eyebrows when you mention law and order. But without law and order, you cannot have the kind of functioning society which we have and I think it is disintegrating at the present time.

They say you should say law and order with justice. I agree. But I agree that justice would be a natural concomitant with law and order, because that is the way the laws are written, that is the way society has survived, and that is the way we have escaped anarchy so far.

Senator McClellan. And when we say law and order with justice, I think we should mean justice to society as well as to the accused.

Senator Mansfield. That is right, because the Constitution guarantees that.

Senator Thurmond. Justice to the victim, too, because so much compassion seems to be extended to the criminal rather than to the victim of crimes, as the distinguished majority leader has indicated.

Senator Mansfield. That is right.

Senator Thurmond. Thank you very much for your appearance.

Senator McClellan. Senator Mathias?

Senator Mathias. Thank you very much, Mr. Chairman. I agree with the distinguished majority leader in so many things, and I think this is just one more area where his leadership is so positive and his approach so good.

Senator Mansfield. Thank you very much.

I would like at this time to introduce to the Committee the Governor of the State of Maryland, who has done a good job in this field, who has passed legislation and with whom I have been in contact on this legislation and otherwise.

[Exhibits referred to appear at the conclusion of today's hearings.]

Senator McClellan. Governor Mandel, come around, please.

Thank you very much, Mr. Majority Leader.

Governor Mandel, we are happy to have you with us this morning. We welcome you to give us the benefit of your knowledge and thinking in the areas of the bills that are pending before us. You may wish to concentrate on just one of them or all of them. But we welcome you to give us the benefit of your counsel in all areas that are before us with respect to law enforcement.

STATEMENT OF HON. MARVIN MANDEL, GOVERNOR OF THE STATE OF MARYLAND, ACCOMPANIED BY JOSEPH PICKUS, CHAIRMAN, MARYLAND CRIMINAL INJURIES COMPENSATION BOARD

Governor Mandel. Mr. Chairman, Mr. Majority Leader, I am going to concentrate on the one bill, because it is an area in which the State of Maryland some years ago—we are in our third year now—undertook to pass a bill similar to the type you are considering—the Criminal Injuries Compensation Act, as we call it.

I have a prepared statement that I am not going to read in its entirety, because I think the remarks of the majority leader and yourself give the background that I gave in my statement, the purpose that the State of Maryland got into this type of legislation, and the reason

for it.

(Prepared statement follows:)

STATEMENT OF MARVIN MANDEL, GOVERNOR OF MARYLAND, SENATE SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURES, ROOM 3302, NEW SENATE OFFICE BUILDING, TUESDAY, NOVEMBER 30, 1971—10:00 A.M.

Mr. Chairman, Members of the Subcommittee: My name is Marvin Mandel. I am Governor of the State of Maryland. I am grateful for the opportunity to appear before the Senate Subcommittee on Criminal Laws and Procedures to testify on pending Federal criminal injuries compensation legislation.

At the outset, I want to say that I personnally and wholeheartedly endorse the concept of a Federal criminal injuries compensation program to provide as-

sistance to the innocent victims of crime in our society.

It is my conviction that the Federal Government not only has a financial obligation, but also a moral responsibility to assist those people who have been and are in most states neglected and forgotten in their hour of need.

There is no question that the primary duty of any responsible government is to preserve order. As you well know, this entails a massive and coordinated effort to prevent crime, to administer justice and to incarcerate the criminal elements in our society.

Billions are expended annually to maintain order—yet crime and the criminal

persist.

Each year thousands of innocent victims of violence are maimed and permanently disabled, or worse. And while society in general may commiserate with them on their cruel misfortunes.

—our sympathy will not mend their broken bodie's, and

—our compassion will not relieve the horrible suffering and mental anguish of these victims and their loved ones.

Many of these people are forced to endure substantial lost time from their jobs

and exorbitant medical expenses. Some will never work again.

In most states the innocent victims of crime have no civil remedy for reparations, either because the offender is not apprehended or because he is impecunious and "judgment proof." It is our experiece that only in rare and isolated cases does the victim ever recover civil damages from his assailant.

With the increasing number of criminal acts being perpetrated upon a defenseless public, the normal insurance coverage a citizen may have is hopelessly

inadequate in most cases.

And at a time of soaring medical costs, it takes but a short time to incurtremendous bills for hospitalization, surgery, orthopedic care and other forms of medical attention.

Regrettably, in most states, the entire financial burden is placed upon the

victim

It is inconceivable to me that we continue to ignore those who suffer serious injury and extreme financial hardship because of our failure to protect them from violence.

Let me cite two examples that I hope will illustrate the awfulness of this

problem.

Some months ago in our State, a 10-year-old girl was walking home for lunch when she was accosted by a 15-year-old youth who plunged a knife in her back. Our grief has not repaired her spine, and she is completely paralyzed from the waist down.

A gang of thugs on a city street fired a shotgun at a 19-year-old pedestrian, striking him in the face. Our indignation for the culprits and our pity for the victim cannot change the fact that he is now totally blind.

Because the criminals succeeds, are we to direct our resources only toward the "war on crime"? Can we continue to dismiss our responsibility for the damage

the criminal has done?

The point I am trying to make to you is that sympathy and compassion alone are not just compensation to these people, and that they desperately need—and

deserve—our help.

It is obvious to all, that despite our high level of technology and standard of living, cruel and vicious crimes against people are an everyday occurrence in the streets of this country—not only are they at an all time high, but they are increasing.

We in government are often accused of showing greater concern for the rights

of the criminal than for the victim of his lawless act.

For only a handful of states has attempted to share the financial burdens of

these forgotten people.

Fortunately, the State of Maryland has developed a plan of compensation for the victims of crime who sustain unusual financial strain, and the two young people I mentioned a moment ago are among the many we have been able to assist.

While we realize that no sum of money can ever right the terrible wrongs they have suffered, we hope these awards are in small way helping to ease the

enormous burden they must carry.

We believe our compensation program has proven to be very effective. And surprisingly, we have learned it is economical to operate. Its cost to the taxpayer

has been much less than was originally anticipated.

I was a member of the Legislature when a compensatory scheme was first proposed, and, at that time, its projected anual cost of operation ranged from \$1 million to \$10 million. Because this was a new and untested area, one that

conceivably could require vast expenditures, the proposal was hastily rejected

by the General Assembly.

However, our legislators did not lose sight of the fact that the State has a duty not only to protect its citizens from crime, but also to reimburse those innocent victims of crime who suffer serious financial hardships as a result of their injuries.

The concept of furnishing such assistance was researched extensively, and

in 1968 a crimial injuries compensation plan became law in Maryland.

Our program is administered by a quasi-judicial body known as the Criminal Injuries Compensation Board. It consists of three members, one of whom is designated to serve as Chairman. They are appointed by the Governor to fiveyear terms.

The services of the Board members are part-time. The Chairman's salary is

\$8,000, and the other two Commissioners receive \$7,500 per year.

The Board is assisted by an Executive Director who receives \$15,900 a year. And the Board's staff also includes two Investigators, an Account Clerk and an Office Secretary.

You might be interested to know that the staff, now well into its third year

of operation, has not increased in size since the Board was established.

I believe the Board has administered the law exceedingly well. The Commissioners have done an outstanding job in separating those cases in which compensation is justified from those that are unwarranted and do not meet statutory requirements.

The complete operating procedure of the Board is outlined in its Second

Annual Report, copies of which have been distributed to you.

I also have with me today Mr. Joseph Pickus, who is the Chairman of the

Maryland Criminal Injuries Compensation Board.

I am sure Mr. Pickus and the members of his staff will be happy to work with you on the details of the pending legislation and to answer any technical questions you may have concerning our experience in this area.

It should be noted that the Board conducts its own investigations to determine and verify the occurrence of a crime, the extent of injuries sustained by the

innocent party and all other aspects of a claim for assistance.

Also, our program compensates victims of crime regardless of their state of

residence, as long as the crime occurs in Maryland.

In other words, residents of the District of Columbia, Delaware, Pennsylvania, Virginia, West Virginia or any other state, who are injured as a result of a crime committed in Maryland, may be entitled to assistance.

This is possible even though those states may have no compensation programs of their own and cannot give reciprocity to Maryland citizens who are

injured in their states.

Perhaps the most pressing problem our program faces today is insufficient public exposure. Despite our efforts, we are certain that many citizens are not aware that the Board exists.

We also know this problem is not unique to Maryland. Through our communications with representatives of similar agencies in other states, we have learned

that they, too, are confronted with the same difficulty.

However, we have already seen dramatic increases in the number of applications filed as public awareness grows. But we know it will be some time before the existence of this program is common knowledge to the man in the street.

For this reason, we anticipate the cost of the program will increase for the next five to seven years before leveling off and providing us with a reliable

annual projection for budget purposes.

Nevertheless, we are very pleased with the way the Board is functioning. We know we are experiencing the customary growing pains and that in time. they will dissolve.

We also are pleased that recently we passed the \$1 million mark in the amount of funds the Board has awarded during its first two years of operation.

But even more important, we are gratified to know that we have been of

assistance to those who need our help.

And that is why I am here today—because I know there are thousands of innocent victims of crime all across this nation who not only deserve, but urgently need your help.

In conclusion, I want to say that I am proud that Maryland is among the first

states in the nation to recognize its responsibility to this segment of our citizenry.

We realize our Criminal Injuries Compensation law-like every other law in the land—has imperfections. Several amendments to the law already have been adopted, and I am sure further refinements will be added as we progress.

I believe our experience has shown, however, that we have developed a viable program, one that provides an essential service to the community as a whole.

It affords real assistance to those innocent victims of lawlessness who are incapable of carrying the financial burden that was inflicted upon them. And this is the goal it was designed to achieve.

Until we can bring an end to violence, it's the very least we can do.

Thank you.

Governor Mandel. What I would like to recite is what has happened as a result of passing this kind of legislation and what the benefits have been and why we feel that the Federal Government also should be involved in this kind of activity.

I could not help, of course, hearing the majority leader talking about the people, the innocent victims of crime. We have just paid out our millionth dollar payment under our program to the innocent victims.

The recipient happened to be a young man who was-

Senator McClellan. Will you yield to me for a moment?

Let the Governor's prepared statement be printed in the record right

in the beginning.

Senator Mathias. Mr. Chairman, since you have interrupted the Governor, if the Governor would yield to me for a moment, because perhaps he will be too modest to mention his own part in the development of this program. The Maryland program, which, as the Governor says, has now expended a million dollars in benefits to the victims of crime, was initiated at the time that he was the speaker of the Maryland House of Delegates, and the bill passed through the legislature with a great deal of impact of his leadership on it. I think that he speaks here not merely as one who is administering a program which is already in place, but as one who helped to create the program in the first place. So I think that lends an extra emphasis to what he will tell the committee.

Senator McClellan. Thank you very much, Senator. I appreciate your comments. It is something that should have been said for the record and I doubt if the Governor was going to mention it.

Governor Mandel. No, sir, I was not going to.
Senator McClellan. You may proceed. We apologize for having interrupted you. I did want to get your statement in the right place.

Governor Mandel. Senator, when I was Speaker of the House, the Senator from Maryland was a member of that House at that time, and

I would not have tolerated his interruptions at that time.

Let me get back to the statement of the majority leader. I have a photograph here of a 10-year-old who was walking along a street, innocently returning home for lunch, when she was stabbed in the back with a bayonette for no reason. She was permanently disabled as a result of that.

Senator McClellan. This picture was after her injury?

Governor Mandel. After her injury, when she was receiving her payment from our Injuries Compensation Board. This is, I think, indicative of what we are talking about.

Here is a young man, the one who received the millionth dollar, who

is totally blind as a result of being shot by a shotgun blast, again for no reason. He was walking along the street when a gang of thugs, if you want to call them that, just took a shotgun and shot him. He is permanently blind.

Senator McClellan. Let us receive those pictures as exhibits to your

testimony.

Governor Mandel. This was taken when we paid out our millionth dollar to the victims of these crimes. [The pictures referred to were made an exhibit.]

Senator McClellan. Now, did you pay a million dollars to each one? Governor Mandel. No, no, we have a maximum of \$45,000. Our pay-

ments are based upon the Workmen's Compensation Law.

Senator McClellan. But you have paid out a total of a million dollars?

domars

Governor Mandel. We have paid out a total of a million dollars in

2 years.

The reason I emphasize that is because at the time the bill was introduced in the legislature, it was immediately defeated the first year because the estimates of cost ran so high. Everyone was talking about it costing us anywhere from several million to \$10 million a year.

Senator McClellan. How many years now have you had the pro-

gram?

Governor Mandel. We are in our third year.

Senator McClellan. What has it cost you to date?

Governor Mandel. It has cost us to date, and there is a report I have given to the committee, \$1 million.

Senator McClellan. This million dollars you speak of is the total

cost----

Governor Mandel. The total cost that we have paid out in awards, \$1 million.

Senator McClellan. How many claims are pending? Do you know

the amount of claims pending?

Governor Mandel. Let me introduce Mr. Pickus, who is sitting next to me, who is chairman of the board. He can give that to you.

Senator McClellan. Would you introduce yourself, please?

Mr. Pickus. My name is Joseph Pickus, P-i-c-k-u-s. I am chairman of the Maryland Criminal Injuries Compensation Board.

May I say that I am honored to appear before such distinguished

gentlemen.

Senator McClellan. We are happy to have you with us. If you can give us some of these figures, the million dollars might not be a correct indicator, since you have only had it 3 years.

Governor Mandel. There are a number of claims that are pending.

Senator McClellan. The committee would like to have that.

Mr. Pickus. In the first full year of operation, we made payments on approximately 250 claims. Now, that is 250 claims that were received, processed, investigated, adjudicated, and on which payments were made. That does not take into account approximately 1,000 or 1,500 inquiries on which files were not opened, because the statutory requisites for one reason or another were not met. In the second year of operation, that figure approximately tripled.

Now, I cannot give you the figures for the current year, because we

are not even halfway into the present fiscal year. I can say this to you, sir: we have made payments in the first full year of operation on approximately 250 claims; in the second year, we have made payments on close to 600 claims. Dollars and cents wise, in the first year, we made payments in excess of \$300,000; in the second year, we exceeded \$600,000.

Senator McClellan. Are you finding the number of claims is

increasing?

Mr. Pickus. Definitely so, sir.

Governor Mandel. Yes, sir; the number of claims is increasing. We have made the program partially self-sustaining by increasing our criminal court costs, with \$5 from those costs allocated to the criminal injuries compensation board.

Senator McClellan. Governor, based on your experience to date, could you tell us that you are satisfied that the claims are not going to increase to an amount that would jeopardize the program in any

way?

Governor Mandel. No, sir, and they are not going to increase to the extent that those who had studied the program before it was enacted both our legislative and our budget bureau's claims—it has not reached that figure and will not reach that figure, even though we project that in the next 5 years, there will be a steady increase in the number of claims as more and more people become familiar with the program. The program is not that well known yet.

Senator McClellan. You anticipate that in the next 4 or 5 years, instead of costing \$1 million-well, \$600,000, I believe, is the most it

cost to date in a year-

Governor Mandel. We imagine it will run to several million dollars a year. But when you analyze what we are doing with that money and the type of people that are being compensated, then you can recognize that the program in itself is fairly inexpensive.

Senator McClellan. How did you say you are supporting it? Governor Mandel. Partially by increasing the costs in the criminal

courts of our State.

Senator McClellan. Well, defendants ordinarily do not pay the cost

of a criminal case, it has been my experience.

Governor Mandel. Those who are found guilty but not given a jail sentence usually pay their court costs, Your Honor. They want to get

Senator McClellan. I am talking about the felons.

Governor Mandel. The felons are the ones I am talking about. If they are given a fine or a jail sentence and then upon release, have to pay those court costs, they are very glad to pay them and get out. Senator McClellan. That is one source of revenue that I think

should be utilized to its maximum.

Governor Mandel. Let me say this, too: Our commission is made up of a chairman whose salary is \$8,000 a year and two commissioners who receive \$7,500 a year. We have an executive director who receives \$15,500, and two investigators, an account clerk, and an office secretary. They handle the whole program. The staff has not increased since the day that we started operation. It remains the same.

Senator McClellan. The administration of it, then, is not costly?

Governor Mandel. It is not costly. It has not increased in cost since

the day we started the program.

In addition, let me say this: The board does not compensate any victim who does not cooperate with the police. If a victim will not cooperate with the police in identifying the assailant or identifying the criminal or testifying or being a witness—

Senator McClellan. Do you put the burden on the claimant to estab-

lish the fact that he has and will cooperate with the police?

Senator Mansfield. Yes, sir.

Mr. Pickus. Yes, sir.

Senator McClellan. The burden is on him?

Governor Mandel. He has to cooperate with the police in order to be eligible for a claim. In other words, when he makes his claim, one of the facts that is investigated is whether or not he has cooperated with the police.

We also have the right, I might say, of subrogation to go against the criminal to recover what the State has paid out. But you are not

going to recover much money that way.

Senator McClellan. That provision is in the bill before us. But the other provision, the requirement that they cooperate with law

enforcement officials, is not in the pending bill.

Governor Mandel. In our law, the victim must report the incident to the police within 48 hours in order to be eligible for compensation. If he does not report the incident to the police within 48 hours, he is not eligible to be compensated.

Senator McClellan. Well, some similar provision, I think, should

be in this bill.

Governor Mandel. That is why I brought it up. I think it is very important that this be part of it, because, one, it eliminates quite a bit of the possibility of fraudulent claim. Second, it requires the people—you know the police have a great deal of difficulty in getting cooperation in a number of instances these days—to cooperate with the police in order to be eligible to recover from the State for the injury that they receive.

I might say that as a member of the general assembly when the program was adopted and serving in the position I occupied at that time, I had some reservations, because I was afraid that the costs could be staggering and overwhelming in the long run. It has not turned out that way. It has not reached anywhere near the proportions that

we thought the costs would be.

Yet on the other hand, when you look at the people who have received the benefits of the act such as those whose pictures I showed you, you realize the importance of it. We spend billions of dollars a year in police protection. No one or very few people seem to consider what happens to these victims when they are permanently injured or permanently disabled, that they cannot resume their work, the hardship on their families. And we got into this program, I might say, a little fearful of how large it would grow and how much it would cost.

But, Mr. Chairman, it has not developed that way, even though we have well publicized it, even though we have made it well known that we do have a program. It has not gotten out of hand, nor has it got-

ten out of proportion to our ability to pay. It is well within reason and I think that it is important that we do this.

Senator McClellan. That is quite reassuring.

Governor Mandel. We have given a copy of our report to the committee. If there are any questions that the committee has, the chairman here would be more than happy to answer them.

Senator McClellan. This report will be received and included in

the record

(The report referred appears at p. 179.)

Governor Mandel. I can only say that I would wholeheartedly urge the committee to adopt legislation of this type. I think it serves a very useful purpose. As I said, we are only in the experimental stage, really, only in our third year. It is a reasonable program, kept within reasonable bounds. You can build safeguards around it to

see that it does not get out of hand.

And I might add, I do not know whether I have mentioned it, we have tried it in direct relationship to our workmen's compensation program, so that the claims that are paid are paid in the same type and manner as would be done under our workmen's compensation program. We have a direct relationship between the two, so we have a basis on which to pay those claims. We are not shooting in the dark trying to figure out what is a claim worth.

Senator McClellan. I do not believe any provision like that is in the pending bill here. I think that is another area where we might

explore the possibility of improving this bill.

Governor, I am a little curious to know what happened to the perpetrators of these crimes on the innocent victims here that you have illustrated. What happened to the man who stabbed the little girl?

Governor Mandel. Mr. Pickus can answer that. They were prose-

cuted and, of course, received a jail sentence.

Senator McClellan. They did?

Governor Mandel. That is right. But that did not take care of the victim.

Senator McClellan. I know. But I am wondering—

Governor Mandel. You mean the length? I cannot answer that. Senator McClellan. What punishment were they given, the men who committed these crimes?

Mr. Pickus. May I say this, Mr. Chairman? Our agency is con-

cerned with helping their victims.

Senator McClellan. I know that. I am not questioning that.

Mr. Pickus. But we do not keep any statistics on the actual criminal. Like your proposed legislation, it is not important whether he is found guilty or not as long as the victim is taken care of. We have the same provision.

Senator McClellan. I think it is important to society that brutes like that be incarcerated and not permitted to roam the streets to assassinate whomever they might choose or to assault innocent people like

that. I think it is awfully important.

Governor Mandel. I agree with you. In fact, the assailants in one of these cases was a 15-year-old who was punished under the juvenile laws. The other, I can get you the answer. I do not have it here.

Senator McClellan. It is all important, of course, where you have youths, juveniles, out committing crimes that we deal with them in a different way in most jurisdictions. I am conscious of that. But we also have a lot of hardened criminals that have been prosecuted before and are out roaming the streets and assassinating or assaulting whomever they may choose. Those people, in my judgment, ought to be incarcerated and kept there.

Governor Mandel. Both of these people, I might say, were convicted. The length of the sentences, I do not know offhand, but they

were both convicted.

Along those lines, though it is not in my statement, if this committee can do anything to speed up the process of criminal trials, I think we

will go a long way toward eliminating this problem.

Senator McClellan. Well, the committee itself can only process legislation that comes before us. This committee has worked very hard in the last few years trying to bring in and report to the Senate legislation in various areas of criminal processing procedures and to strengthen law enforcement and also to make it possible to prosecute or to present the facts against the criminal. We have passed a number of provisions in the recent act dealing particularly with organized crime that we think are going to prove very effective. But there is still lots you have to do. What we need to do is to speed up the processes of justice.

Governor Mandel. That is exactly what I say.

Senator McClellan. Speed it up and within 60 days or 90 days after a horrible crime has been committed, if they have found the culprit or the accused, that he gets a trial, and a fair trial, of course; but that the matter is disposed of. He is either found innocent—if he is innocent and the charge removed against him, or if guilty, then he is subjected to the proper punishment.

subjected to the proper punishment.

Some people do not like the word "punishment." Well, I do not, either. But neither do I like the cruelty and barbarism of those who go out and kill the innocent, the young people who are pursuing the

peaceful pursuits of life. I do not like that.

Well, I think Senator Mansfield referred to the fact that we have had six little black girls killed in this vicinity within the last few months, the last year or so, innocent victims of some brute, some barbarous character, I do not know who; we do not know. But those are the people we are talking about. Some of them are sick, too, maybe, but they ought to be incarcerated, either in a hospital somewhere or in an institution where they will not be free to repeat their crimes. I think we need to speed up the processes of justice in our criminal injuries prudence.

Senator Mathias?

Senator Mathias. Mr. Chairman, I have just a few very brief questions. As you know, Mr. Chairman, I am in support of this proposal. The victims of crimes must be given assistance by the Federal Government. We must concentrate as much on their relief as the relief of the criminal justice system itself.

In the Mansfield bill, Governor, under section 302, is a list of the categories of offenses to which the act would apply without any reference to whether or not they are under State or Federal law. Now, if

the Mansfield bill should pass, and I would say, Mr. Chairman, that I would support such a program, I am wondering this: If the Mansfield should pass, it would seem to me it would preempt all State programs of this sort. Do you have any views as to whether or not we ought to try to preserve the State systems with, say, some equitable Federal funding, or whether this whole program of criminal compensation should become a Federal function?

Governor Mandel. In our statute, we merely allude to the criminal law, article 27 of our code, which encompasses all criminal acts, and say any victim of any of these criminal acts. We do not specify a particular criminal act. We say any criminal act that is made a crime in

article 27.

I do not think you should just say that only certain criminal acts are going to be compensated. We compensate for anything that is a crime under our law. I do not think that the Federal law ought to preempt that. I do not think that it ought to eliminate that. I think it is only fair. A man or a woman can be just as permanently disabled under one criminal act as they can under another.

Senator McClellan. Would you yield at that point? I would like

to ask a question.

Senator Mathias. Yes.

Senator McClellan. Does your statute apply to the victim of an automobile accident where the driver of the other car was speeding? That would be a violation of the law?

Governor Mandel. No; that is a violation of our motor vehicle code

and not our criminal code and would not apply.

Senator McClellan. But it would also be a crime. If we make it applicable to all crime, that would be included.

Governor Mandel. But we specifically refer to our criminal code,

not our motor vehicle code. That is eliminated.

Senator McClellan. That has a special significance under your system and under your statute. I was just thinking about crime. If you said as a result of any crime, it would compensate the victims of an automobile action.

Governor Mandel. Anything that is defined as a crime in our crim-

inal statute, article 27.

But again I would say, Senator, I would not preempt the field. I think that in doing that, it will just cause confusion. I would try to make it relate to the State program.

Senator Mathias. And to work out a relationship between a Federal program and the existing State programs and such other State

programs as may follow Maryland's lead here?

Governor Mandel. That is right, Senator. I think there are only about seven States now, six or seven States, that have such a program. They are gradually moving into it, but there are only about six or seven that have it at the present time. But I do think if this bill passes, you will find many, many more getting into it. They are all fearful of the same thing in the beginning, because we talked to a number of them, the costs. None of the programs have developed the way people projected that it would.

Senator Mathias. I think that the States that have it now are California, New York, Massachusetts, and Hawaii, as well as Maryland.

Governor Mandel. That is right; and I think New Jersey has just gone into it, if I am not mistaken.

Senator Mathias. It is of some interest, Mr. Chairman, that there are three Provinces in Canada which have similar systems, and in

both Great Britain and New Zealand, the system is in effect.

Mentioning Great Britain, I might also add one element which looks to reimbursement of the fund, where they, I believe, as a part of the criminal proceeding, declare the criminal bankrupt for the purposes of collecting any of his assets that can be brought into the fund. I think that the committee, in reviewing the Mansfield bill, might want to look into that provision of legally requiring the man to disgorge any assets he has for the benefit of his victims.

Governor Mandel. We have that right under our law, Senator, and it is not too effective. It is very difficult in most criminal cases

to find any assets of the criminal.

But let me say this: Under our program, as I said, we take part of the court costs to compensate it. In the first year, we collected \$135,000 from court costs and we paid out \$66,000. In the 2d year, we collected \$150,000 in court costs and we paid out, expended \$215,000. The 3rd year, \$165,000 was collected in court costs and we actually paid out \$300,000.

Now, when I say paid out, I mean the awards were greater than what we paid out, because a lot of them were paid out per month over a period of years. But we are collecting back a part of our costs from

the court costs in the criminal courts of the State.

Senator McClellan. There is no expense in that case, either, is here?

Governor Mandel. No, sir, that is collected right from the court. Senator Mathias. One final question, directed to Mr. Pickus.

How much flexibility do you have in judging the victim's cooperation? In other words, if a victim is, say, in shock or in the hospital and has not been able to communicate with police for an extended period of time, can you take those circumstances into account?

Mr. Pickus. It is my feeling that we can, Senator. Under our law, the statute requires that the offense be reported to the authorities within 48 hours. Now, if you run into an isolated case like shock or amnesia, these circumstances you just have to face up to as they develop before you.

Now, we have had no such case and the statute clearly says that if no report is made within 48 hours, we cannot assist. I think in that type of case, with all the other factors working for a particular victim,

we would most certainly try to give him the benefit of the doubt.

Governor Mandel. Senator, that would be interpreted, as many other laws are, as meaning within 48 hours of his ability to do it. I do not think there is any question about that. But that was purposely written into the law so that crimes would be reported and that the people would be cooperating with police.

Senator Mathias. I think it is a very useful provision.

Thank you, Mr. Chairman.

Senator McClellan. Senator Thurmond? Senator Thurmond. Thank you, Mr. Chairman. Governor, we are glad to have you with us. If a Federal law should be passed on this subject, is it your interpretation that that would be applied with regard to violation of Federal laws in the various States or would this be compensation paid to the States to pay victims, or would it be paid by the Federal Government in addition to what the State pays if the State has a law like the State

of Maryland?

Governor Mandel. I think it should be paid to States that have a law similar to that which the State of Maryland has. I cannot see any benefit for the Federal Government to establish a whole new bureaucracy, if you want to call it that, to handle this when the various States are handling it already. I think that if the Federal Government would compensate the State of Maryland for its program if it meets Federal guidelines, this would take care of the problem. But if you only make it applicable to Federal law, three-quarters of the victims would not be reimbursed under that Federal program.

Senator THURMOND. Then the ultimate effect of this law would be to relieve the States of that responsibility in effect so far as the financial

end of it goes?

Governor Mandel. It would help to relieve it. I do not think the Federal program would compensate any State for its entire program. Senator Thurmond. For instance, now, the State of Maryland is

handling this responsibility itself.

Governor Mandel. That is right.

Senator Thurmond. And those States that do not have such a law have no responsibility. So it would be your idea that if a Federal law were passed, the Federal Government should just provide funds for the State to pay these bills so the States would not have to pay them.

Governor Mandel. For these States that have a program. For those

that do not, I think the Federal Government should step in.

For those States that do not have a program of their own, I think the Federal Government should then step in and have a program.

Senator Thermond. I want to ask you this question, because human nature is human nature and we have seen it in welfare matters, where the Federal Government provides 50 percent or more of the payment. There is an inclination on the part of the local authorities sometimes to give a larger payment because the Federal Government is paying half of it. In fact, I have heard some of the people who administer programs in some of the States say, well, maybe we can give a little more because the Federal Government is paying 60 or 70 percent of it. I am wondering if, if the Federal Government is paying it and the States are going to determine the amount, would it be a temptation on the part of boards in each State that administers the program to give a larger amount than it would if the State had to pay it iself?

Governor Mandel. No, sir, I think the Federal law should, within its own law, have a limit on the responsibility that it would assume

so that the States could not increase awards.

Senator Thurmond. Well, the States would have a law setting a limit on awards. For instance, in your State, you have a maximum of how much?

Governor Mandel. \$45,000.

Senator Thurmond. That is for death. How much for injuries? Governor Mandel. That is permanent disability.

Senator Thurmond. This only applies to permanent disability, is that right?

Governor Mandel. That is right.

Senator Thurmond. It does not apply to an injury or loss of one arm?

Governor Mandel. The word "injury," we apply the same that we do under the workmen's compensation.

Senator Thurmond. If they lose an eye or an arm, they would get

something?

Governor Mandel. That is right.

Senator Thurmond. Suppose they received a severe laceration, 10 or 12 inches in the chest or arm or somewhere, or a disfigurement; would he get anything for that?

Mr. Pickus. Yes, sir; he would get something for that.

Senator Thurmond. The same as workmen's compensation all the

way through?

Mr. Pickus. We run anywhere from a minimum of \$100 or loss of 2 weeks' wages up to a permanent and total disability of \$45,000 and everything in between.

Senator Thurmond. So a local board or authority would not have the discretion. If they wanted to give \$5,000 or \$25,000 for injuries, they would be bound by the compensation laws of the State that exist?

Governor Mandel. In our State; yes, sir.

Senator Thurmond. For injuries to workmen, injured in the scope of their duties?

Governor Mandel. That is right. We felt we had to have some guidelines for the compensation.

Senator Thurmond. If you did not have the guidelines, you see what

I mean about the possibilities there.

Governor Mandel. Yes, sir; there would be all kind of difficulties. Senator Thurmond. Or temptation to pay larger amounts.

Governor Mandel. That is right, sir.

Senator Thurmond. Thank you very much. We are glad to have you with us.

Senator McClellan. Thank you, Governor. Your testimony will be very helpful to this committee.

Governor Mandel. Thank you.

Senator McClellan. Our next witness is Mr. Richard Velde, one of the Associate Administrators of the LEAA.

Mr. Velde's presence was requested, I believe, by Senator Kennedy. Senator Kennedy, if it is agreeable, sir, I will now turn the inquiry

of Mr. Velde over to you for the present.

Senator Kennedy. Thank you very much, Mr. Chairman. You have been extremely accommodating to me personally in the timing of these hearings and also in the need to inquire of Mr. Velde briefly. I talked to Mr. Velde just prior to the meeting this morning about his willingness to respond to some questions directed to the Administration view toward S. 33, and he indicated he would.

But I want to thank you personally for your kindness in including the legislation on the calendar and also for conducting the hearings

earlier and permitting me to proceed out of order.

I want to thank Mr. Velde very much for being with us here this morning.

Senator McClellan. For the record this morning, I will, as scheduled, allow Senator Mansfield's testimony to appear in the record first and Mr. Velde's may come in in order, if that is agreeable to you. Senator Kennedy. Yes, indeed.

Senator McClellan. But I did want to accommodate you if I could. Senator Kennedy. Thank you very much, Mr. Chairman. I would like to have a statement printed in the record, if I could, including comments on S. 33 in the appropriate place in the record.

Senator McClellan. Do you want it to precede Mr. Velde's testi-

mony?

Senator Kennedy. Well, if it could precede it, that would be fine. Senator McClellan. Very well, let it be printed in the record. (The statement referred to follows:)

STATEMENT OF SENATOR EDWARD M. KENNEDY AT HEARINGS ON POLICE INSURANCE BILLS BEFORE SENATE CRIMINAL LAWS AND PROCEDURES SUBCOMMITTEE, TUES-DAY, NOVEMBER 30, 1971

We cannot call ourselves free men if we cannot walk our streets in safety, if we cannot sleep in peace in our homes, if we cannot conduct our business without fear. Our daily lives are shadowed by the constant threat of the criminal. We sense that threat growing beyond our control.

We are so fearful that we fall prey to those who purvey panaceas. We conjure up scapegoats to vent our tension and frustration. There are no easy solutions and we must not permit ourselves to be deceived into believing that there are.

There are solutions. They are not simple and they may not be complete. They require hard work, dedication, resources, time and confidence in the strength of our system. The effort must be made by each of us as individuals, in our communities, in our States, and by the Federal Government.

That effort was initiated in the last decade by Presidents Kennedy and Johnson. New Federal laws were enacted to control organized crime; a massive new slate of Federal assistance to State and local governments was conceived and adopted. Local municipalities were urged to create their own anticrime planning programs; and the National Crime Commission provided us with a blueprint for a comprehensive and rational attack on the scourge of crime. All of those activities have laid a solid foundation on which we must move and build.

We must eliminate crime at its roots by seriously attacking poverty, illiteracy,

deprivation, and unemployment that nurture the seeds of crime. But, the more immediate problem is dealing with crime where we find it.

A complete overhaul of our correctional system is long overdue. Our prisons have become colleges for criminals and those who leave them are likely to be more skilled, hardened thugs, not rehabilitated citizens. On a national basis, onethird of those released from prison will return within 5 years. Unless the correctional process begins to utilize the tools of guidance, education, and vocational training, the present pattern will continue irrevocably.

Our courts are urgently in need of modernization. We must apply modern methods of administration, including computer technology, to the scheduling and processing of court business. We need more judges, administrators, prosecutors, and defense attorneys so that they can provide justice swiftly, fairly, efficiently,

and consistently.

And most urgently, we must take immediate steps to enhance the effectiveness of our police forces. They must be provided with 20th century equipment and techniques. In an age of lasers and live TV from the moon, there is no reason why the officer on the street should be confined to the nightstick, the revolver and a dime for the pay phone. We must provide our police officers with the training to do the best job possible. And we must offer opportunities for educational advancement so that those who wish may expand their horizons; and understand even more fully the society which they protect.

We not only want our law enforcement officials to act professional, we want them to feel professional. That requires giving them the kind of dignity, respect, income, working conditions, and occupational benefits that we extend to other professionals in the community. It is difficult for people to look up to men who begin and end their days in a dingy, illequipped station house. It is difficult for the policeman's family to feel pride if they are not adequately protected by health, life, and accidental death and disability insurance and by a fair retire-

ment program.

The National Crime Commission reaffirmed and endorsed in 1967 the need for such professionalism and dignity in law enforcement work. In response to their recommendations and discussions I have had with law enforcement experts and community leaders, I introduced in that year a bill to give all police officers in the United States access to low cost and broad coverage life insurance. This program I felt would not only offer the kinds of assistance that is vitally needed but would be symbolic of this Nation's determination to support law enforcement—not only in word but in deed. My research showed that for some officers such as pilots, vice squads, traffic patrolmen and motorcycle policemen, life insurance was either extremely expensive or inaccessible and double indemnity was impossible to obtain. Therefore because of their jobs, they and their families were completely unprotected against death or disability on or off the job. This is one important factor that is sometimes overlooked—that policemen's hazardous duty makes it difficulty or impossible for many to obtain adequate life insurance to cover them on or off duty. In other words, if we wish to respond adequately to the problems created by the risks of a policeman's work, we must enact legislation which will help policemen, whether they are on the job or not.

Even for those in less hazardous areas of law enforcement the premiums for life insurance policies, which must still in many cases be high-risk plans, are often a luxury which they simply cannot afford. Many states and localities have no group plans, and in those which do the premiums are often high and the

coverage limited.

The bill that I am sponsoring, S. 33, is patterned after the Servicemen's Group Life Insurance program which is available to each member of our Armed Forces. It will provide low cost group life insurance to the members of any law enforcement agency which elects to participate. The new law enforcement group life insurance—LEGLI—program will be administered by the Federal Government, but the underlying insurance coverage will be carried and paid by private life

insurance companies.

The Attorney General would purchase a national group policy from eligible national life insurance companies, and any unit of state or local government performing law enforcement functions could apply for participation in the program. Officers in participating units could elect not to be covered; those remaining in the program would have premiums deducted from their wages. The amount of group life insurance and also of group accidental death and dismemberment insurance for each officer would follow a schedule in the bill, returning benefits of approximately the law enforcement officer's salary at the time of his death or injury plus \$2,000, starting from a floor of \$10,000 coverage. Thus, an officer earning \$7,500 annually would have a \$10,000 policy, which would cover loss of eye and limb as well as life. The officer would be covered on or off the job and would receive double indemnity—\$20,000 in this example,

and up to \$64,000 depending on salary level—for accidental death.

One of the purposes of this legislation is to make life insurance available to law enforcement officers on terms comparable to those on which other citizens can obtain it. The bill therefore contemplates, not a complete federal gift of life insurance to state and local police, but a moderate federal subsidy to bring down the price of life insurance to law enforcement officers. The Attorney General having purchased the group policy, the Federal Government would in effect be reimbursed for at least two-thirds of the policy's cost by premium payments from, covered officers. The remainder would constitute the federal subsidy. The total policy cost for each officer, we presently estimate, would be fifty cents per month per \$1,000 of coverage. Thus, for the \$10,000 policy in the example above, the total monthly cost would be \$5, or \$60 per year. Deducting the assistance from the Federal Government, the officer would pay only \$40 annually. The schedule of premium rates is to be set by the Attorney General consistent with the lowest rates generally charged for new group life insurance policies issued to large employers. Naturally the premium rates and the federal contribution may fluctuate depending on experience. In some areas, State or local contributions to the program will further reduce the cost to the participating officer.

S. 33 would provide for the retention of existing state or local group life insurance programs, with a new federal contribution, where the police officers

prefer that alternative to the federal group plan. The bill will allow any department to present to its officers the full facts on each plan, and if a majority votes to retain the existing plan, the agency will be eligible to receive a federal contribution to the premiums for the existing plan of up to three-fourths of the

equivalent federal contribution under the federal plan.

I have been in constant contact with patrolmen, police chiefs, insurance company representatives, and dependents of deceased law enforcement officers, in Massachusetts and in many other places, to determine their needs and areas of concern. And the bill has the support of the leading national police organizations, including the International Conference of Police Associations, the Fraternal Order of Police, and International Association of Chiefs of Police, and many others.

I am submitting statements from several police groups expressing their sup-

port for the bill.

The bill does not yet extend its benefits to firemen. As I mentioned, the bill grew out of the work of the 1967 Crime Commission and other bills relating to police officers. The cost figures are based on experience with police work. I have had considerable contact with firemen's representatives, however, and I strongly favor the inclusion of firemen in the bill's protection if this addition can receive support from the subcommittee and the full committee.

A primary duty of government is to protect its citizens, and the first line of protection is its policemen. I hope that we in Congress can act soon to assist the policemen and their families in this and other ways so that "support your local police" may be a comprehensive plan for government action and not just

a bumper sticker.

Senator Kennedy. I would also like to include, if I may, Mr. Chairman, in the record a letter from Mr. Robert Kliesmet, who is the vice president and legislative committee chairman of the International Conference of Police Associations, representing 150,000 North American law enforcement officers. If his brief letter could be included, along with some other material from police and firemen's organizations.

Senator McClellan. I will direct the counsel of the committee to see

that these insertions are placed at the proper place in the record.

Senator Kennedy. Thank you very much. (The material referred to follows:)

International Conference of Police Associations, Washington, D.C., November 29, 1971.

JOHN L. McCLELLAN,

Chairman, Senate Criminal Laws and Procedure Committee, Room 2204, New Senate Office Building, Washington, D.C.

Mr. Chairman, Gentlemen of the Committee: For the record, my name is Robert B. Kliesmet, a Vice-President and Legislative Committee Chairman of the International Conference of Police Associations representing 150,000 North American law enforcement officers.

As their representative, I would like to address myself on their behalf to Senate Bill S-33, cited as "Law Enforcement Officers Group Life Insurance Act of 1971", which was introduced by Senator Edward M. Kennedy of the state of

Massachusetts.

At the outset let us say that we are wholeheartedly in support of and seek passage of this important piece of legislation. Important for many reasons, but most important of all, it would provide "peace of mind" for the dedicated professional law enforcement officers who daily risk life and limb in a never ending struggle against lawlessness. "Peace of mind" because should an officer be unfortunately killed or seriously disabled, his dependents would receive some relief through this legislation. "Peace of mind" because the federal government would share in the cost of this insurance coverage. The officer would not need to hear the lame excuses his particular unit of local government resorts to when officers "collectively beg" for this type of benefit. He would no longer need to listen to his unit of local government use rhetorical excuses such as "there is no more money" and "what we need is federal revenue sharing" when this benefit is requested in bargaining.

It must be pointed out that some state and local units of government do not provide any bargaining rights for law enforcement officers. In some cases law enforcement officers do not receive any benefit of this nature. Law enforcement officers by-and-large have no real bargaining power because of the code of ethics they perform their duties under.

Passage of this legislature would help in making that proverbial "thin blue line" just a little stronger. Stronger because the officers would have "piece of

mind" in the performance of his duties.

This legislation is important to each and every law enforcement officer and should be passed.

Thank you for allowing us to express our concern and interest in this Bill. Sincerely yours,

RORERT B. KLIESMET, Vice-President.

EXCERPT FROM STATEMENT SUBMITTED BY INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, AFL-CIO

The International Association of Fire Fighters vigorously supports the legislation introduced by Senator Kennedy that would provide a Group Life Insurance Program for the Police Officers of this Nation. We firmly believe that if Senator Kennedy's proposal should become law it should be extended to include the Fire Fighters of this Nation.

STATEMENT SUBMITTED BY QUINN TAMM, EXECUTIVE DIRECTOR, INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

Mr. Chairman and members of the Subcommittee on Criminal Laws and Procedures, my name is Quinn Tamm and I am the Executive Director of the International Association of Chiefs of Police.

The Association is professionally recognized as the official voice of executive

law enforcement throughout the country.

On behalf of the more than eighty-five hundred police officials who comprise our membership, I welcome this opportunity to offer testimony in support of Senate Bill 33, the Law Enforcement Officer's Group Life Insurance Act of 1971, as introduced by Senator Edward Mr. Kennedy.

Compensation for death and injuries to our nation's police officers has been

the subject of great concrn to the members of IACP.

All too often, the painfully slow administration of such benefits by their various city, state, and federal sponsors poses serious hardships to surviving families.

Compensation differs in each state and has as many variations as there are individual agencies.

The inequities of many of these various plans often force widows and orphans of slain police officers to seek relief from welfare and social agencies.

It would appear that a single federally sponsored and administered program would alleviate much of the weaknesses in processing payments and provide a more uniform compensation across the country.

Let me offer some figures on police salaries and benefits that will point up the

need for such a plan.

In the major metropolitan cities with populations of more than 500,000 the average annual maximum wage for police patrolmen is \$9,048. In cities with a population base between 250,000 and 500,000 the average annual maximum is \$8,778. Where population ranges from 100,000 to 250,000 police receive a maximum average of \$8,008. Cities with populations between 50,000 and 100,000 are paying \$8,198 per annum for police patrolmen. The smaller cities of 25,000 to 50,000 report police salary averages at \$7,935 and cities below 25,000 pay a median of \$7,320.

These wages range from a low of \$3.552—dangerously close to the poverty

level—to a high of \$14.052; a fair living wage.

Salary medians for police officers fall below the pay scales for those positions we may refer to as non-professional semi-skilled labor. These include truckers, construction workers, steelworkers, stevedores, longshoremen, and others.

The skilled tradesmen—electricians, plumbers, plasterers, carpenters, etc—

receive wages on a parity with our highest paid police officials. The median annual salary for a Chief of Police in cities with a population base from 500,000 to 1,000,000 is \$24,556.

In our research into the death and disability benefits for police officers, we have found several policies which require a higher premium payment than that required for other positions which I have listed. Ostensibly, this is due to the

"high risk" nature of police work.

We do not believe the police officer should have to pa

We do not believe the police officer should have to pay a premium just for being a policeman, nor are we seeking special status for policemen. Premium rates should conform to those established by group coverage of comparable positions.

In 37 major cities surveyed by the Kansas City, Missouri Police Department in 1970, 14 had no provisions whatsoever for natural death except those covered by pension. In 9 cities, there was no coverage for line of duty deaths, excepting pension benefits. Many of these relied on donations and contributions to cover funeral expenses. Under pension plan death benefits, compensation ranged from 20% to 100% of salary for patrolmen awarded to surviving widow and children.

Benefits under pension provisions are generally alloted to surviving widow until she remarries and dependent children until they reach the age of majority. Again, definitions of surviving family and dependent children and age of majority differ from state to state and benefits suffer through local interpretations.

Death and disability benefits are presently inadequate and, at best, are difficult to administer due to the immense variations from city to city and state to

state.

Ideally, a single federally sponsored and administered law will provide the necessary controls.

The social challenge of the seventies has placed the police officer in the front

line.

They have met that challenge courageously and honorably. Many have died. Thousands have been injured.

Individual agencies are doing everything possible within their own budgetary

and statutory limitations.

A federal benefits program, such as Senate Bill 33, would do much in raising the compensation benefits to a level befitting the services that these men are called upon to perform.

Your deliberations carry immense responsibility. I am sure your decisions will be appropriate. Thank you!

EXCERPT FROM STATEMENT SUBMITTED BY W. H. MCCLENNAN, PRESIDENT, INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, AFL-CIO

There is much discussion, at the present time, regarding revenue sharing with municipalities. I can assure you there is no better way to assist municipal Governments in maintaining good morale in their Public Safety Departments than by adopting into law the principles embodied in Senator Boggs' S. 2748 and the principles of Senator Humphrey's S. 1947. The International Association of Fire Fighters vigorously supports the legislation introduced by Senator Kennedy that would provide a Group Life Insurance Program for the Police Officers of this Nation. We firmly believe that if Senator Kennedy's proposal should become law it should be extended to include the Fire Fighters of this Nation.

The International Association of Fire Fighters respectfully request the Committee to favorably report legislation reflecting the intent of these bills with equal consideration to all Public Safety Employees.

Senator Kennedy. Mr. Velde, we just received your statement this morning and have had a brief opportunity to read it here, particularly the sections which refer to S. 33. You understand that S. 33 was adopted in the committee last year, accepted by the Senate, and went into conference. Then, principally at the urging of Chairman Celler in the House, who had not had enough opportunity to give it consideration—although he, himself, was inclined to support it—the matter was dropped in the conference. The insurance approach

that we are following here is something that sprang out of the 1967 Crime Commission in the country and as you know, it has been introduced in different forms the last 4 years, but in more refined form 2 years ago, and accepted last year.

You comment on the proposal and indicate in your testimony that the administration—I believe it is on page 7, in the bottom paragraph—that the administration does not favor such a proposal. Is that correct?

STATEMENT OF RICHARD VELDE, ASSOCIATE ADMINISTRATOR, LAW ENFORCEMENT ASSISTANCE ADMINISTRATION, DEPART-MENT OF JUSTICE, ACCOMPANIED BY HUGH M. DURHAM, CHIEF, LEGISLATIVE AND LEGAL SECTION

Mr. Velde. Yes, sir, I believe the statement indicates, Senator, that the Department prefers enactment of S. 2087, which is an administration-sponsored bill introduced by Senators McClellan and Hruska, which would provide the payment of death benefits rather than the more sweeping group life insurance provisions contained in S. 33 and in a similar bill, also pending before this subcommittee, S. 1946.

Senator Kennedy. There is really no reason legislatively that the principal features of both proposals could not be combined, is there,

from a technical point of view?

Mr. Velde. Technically, they could be combined, yes, sir.

Senator Kennedy. So you would have the death benefits as suggested by the administration, and also the insurance features that

were included in S. 33?

Mr. Velde. Yes, they do not overlap. One would be a payment provided by the Federal Government to a very small class of police officers killed in the line of duty. The other would be a general benefit, a fringe benefit, if you will, for participating police officers, which

would be a much larger group.

Senator Kennedy. Well, it would be available to law enforcement officials throughout the country. They would be the ones, some 500,000 law enforcement officials. In any event, hopefully, the firefighters would be included as well. But you are correct that the S. 33 could be a good deal broader in scope to include law enforcement officials throughout the country.

You indicate that you do not favor it. Should we not also assume

that the administration does not oppose it?

Mr. Velde. I think it is fair to say, Senator, that, well, as the statement indicates, we prefer the enactment of S. 2087. There are degrees of opposition to a measure, as you well know. The Department's view is based on the preference for the bill that it has sponsored. I think

the record should stand on that basis.

Senator Kennedy. I have been a strong supporter of the principle of the administration's proposal, which springs from the same concern as my own. I am just wondering if the committee found in their wisdom that there is support for the administration's program, which I am hopeful that there would be, and that there could also be inclusion of police officers who suffer the loss of limb or eye in the line of duty or who die from natural causes in the line of duty. The administration would not oppose that?

Mr. Velde. Senator, a very similar provision, as you have indicated, did pass the Senate a year ago as title 2 of the Omnibus amendments to the LEAA legislation. At that time, the Department did take a position in a letter to the chairman of the subcommittee indicating opposition. Since that time, the Department has modified its view generally in that we support now the more limited form of compensation, the death benefit payment, as opposed to the broader life insurance. That is as far as we are prepared to go at this point, though, Senator.

Senator Kennedy. Well, I can commend the administration for moving in this area. I had an opportunity to chair some hearings on this proposal during the last couple of years, and I find, as I am sure you are very much aware, that the insurance for police officers is extremely modest. I know in my own State, for example, Massachusetts, it comes to a figure of some \$2,000, with very few exceptions in some municipalities. But generally, it is \$2,000 statewide. I would think that there are few groups that have insurance coverage as low as the police officers of this country or the firefighters. And it seemed to me that in the course of our hearings, the value that police officers placed on the peace of mind, so to speak, in terms of their family, was extremely compelling. They realize that they are day-by-day confronted with danger, as you pointed out so well, and are increasingly becoming the targets of violence. I think we saw this demonstrated in the riots of 1968, as it applied both to police and to firefighters. And I was deeply impressed, as I am sure the administration has become, that the fact of such a limited kind of insurance brings about concern to those who really are in the front line of the struggle against violence in this country.

I think local groups are to be commended for what they have done in trying to augment and supplement the kinds of death benefits that have been received by police and firefighters. I know in my own city of Boston, you are probably familiar with the formation of the 100 Club up there, to pay off mortgages of firefighters or policemen who are lost in the line of duty. As a charter member of that organization, I have seen that organization spring up. There are many too many

times that we are confronted with this kind of a problem.

I would like to, if I could, Mr. Velde—I see the majority leader here. I would like to—I understand, so I will just be very brief and

find just a couple of questions and then yield to the leader.

You indicate that one of the reasons for reservation is the creation of a separate administrative organization. I understand you have a study on that particular question about what additional administration would be needed if you are to develop this. I am wondering if you could submit that to the committee?

Mr. Velde. Yes. [See p. 719 of the appendix.]

DECEMBER 9, 1971.

Mr. Richard W. Velde, Associate Administrator, Law Enforcement Assistance Administration, Washington, D.C.

DEAR MR. Velde: As I indicated during the hearing before the Criminal Laws Subcommittee last week, there are a few additional questions concerning S. 33 and S. 2087 which I would appreciate your answering.

First, you say that S. 2087 would "give each officer the confidence that his family would be well provided for in the event of his death." Isn't this overstating it, since S. 2087 would do nothing for the officer who died of natural

causes while on duty or who died of whatever cause while off duty?

Second, you say in your statement that "there is no existing impediment to the expansion (of existing group life insurance plans available to police officers) at the state and local level." Please provide the Subcommittee with any information presently available on any substantial steps recently taken by states and localities to solve promptly the problem of inadequate life insurance for law enforcement officers without a federal program.

Third, would you agree that availability of inexpensive life insurance is a significant benefit for federal employees, and that such insurance for law enforce-

ment officers would aid in state and local recruitment?

Fourth, please provide the Subcommittee with comparative estimates of the cost to the federal government of the programs proposed by S. 33 and S. 2087, on the assumptions that the programs include a) law enforcement officers only, b) law enforcement and corrections officers only, and c) law enforcement officers, corrections officers, and firemen.

I appreciate your willingness to answer these inquiries and hope that we shall be able to cooperate in the adoption of a program to provide adequate life insur-

ance for state and local police, correctional guards, and firemen.

Sincerely,

EDWARD M. KENNEDY.

STAFF STUDY—ANALYSIS OF S. 33 LAW ENFORCEMENT OFFICERS GROUP LIFE INSURANCE ACT OF 1971 AND S. 2087 POLICE OFFICERS DEATH BENEFITS

PREFACE

This analysis was conducted to accomplish three objectives:

1. A survey of life insurance benefits available to law enforcement officers

employed at the state and local levels of government.

2. An estimate of premium and administrative costs to the federal government for all full-time law enforcement officers, corrections officers and firefighters employed at the state and local levels of government if S. 33, Police Officers Group Life Insurance Act of 1971 were to include the cited groups of public safety officers, and

3. An estimate of benefits payable to survivors/dependents of full-time law enforcement officers, corrections officers and firefighters employed at State and local levels of government, who were killed in the line of duty during the period of 1968–1971 inclusive, if S. 2087, *Police Officers Benefits Act of 1971*, were to apply to the cited groups of public safety officers.

The data and estimates developed in the analysis do not infer a policy or position on either of the pending bills by the Law Enforcement Assistance Admin-

istration or the Department of Justice.

SUMMARY

Estimated Insurance Coverage for Police Officers

Surveys conducted in 1971 and 1972 indicate that the number of law enforcement officers in the United States who do not receive paid insurance benefits from their employer range from 69,320 to 103,000. It is also estimated that approximately 46,212 officers are benefitting from a fully paid (by employer) life insurance program and approximately 269,573 officers are participating in a shared-cost insurance program. These data do not include union or beneficial organization insurance programs. Approximately 68% of the officers are under some form of employer plan (fully paid or partially paid) ranging in paid coverage from \$1,000-\$10,000).

Federal Costs of Insurance Program Under S. 33, Law Enforcement Officers Group Life Insurance Act of 1971

Based upon estimated decennial age groups of police officers and representative premiums for that age group, the federal share (one third of premium costs) at 100% participation, is estimated as follows:

a. Law enforcement officers only, \$11.6 million.

b. Law enforcement officers and corrections officers only, \$14.7 million.

c. Law enforcement, corrections and firefighters, \$20.7 million.

The cost of federal administration and salaries is estimated at \$1,172,414 per annum. Total annual costs by insured segments including premium share and administrative costs becomes:

a. Law enforcement officers only, \$12.8 million.

b. Law enforcement and corrections officers only, \$15.9 million.
c. Law enforcement, corrections and firefighters, \$21.9 million.

Estimated Benefits Payable Under S. 2087, Police Officers Benefits Act of 1971

Assuming the Act would be retroactive to 1968, the numbers of Law Enforcement, Corrections Officers and Firefighters killed in the line of duty were obtained from official records and/or estimated to determine the extent of benefits payable. Cumulative from 1968 to end of 1971, these benefits are estimated to be:

	Milli	on
Police officers	\$28.	3
Corrections officers		6
Firefighters	42.	4
-		_
Subotal	71.	3
Less District of Columbia KIA		65
-		
Total	70.	75

A. Life insurance programs for public service officers

The Fraternal Order of Police Survey of 1971 Salaries and Working Conditions of the Police Departments in the United States (March 15, 1971) covering 22,264 police officers and their departments, indicate that 60,304 officers are not covered under any employer paid insurance program. Nationally, this approximates

103,000 not receiving such fringe benefits.

From a 1972 sample of 720 police departments taken by the International Conference of Police Associations, it is estimated that 69,320 officers are not covered by employer-paid plans. Though the difference between the estimates derived from the Fraternal Order of Police survey (103,000) and the latter sample (60,304) may infer increased coverage, sample error may account for the differences. However, the sample of 720 police departments was used to estimate numbers of officers under fully-paid plans and partially paid plans. It was estimated that 46,212 officers are under employer fully-paid plans and 269,573 officers are under employer partially paid plans. Thus, it is estimated that 315,785 officers benefit from employer paid plans, fully-paid or partially paid. It does appear that a substantial program exists on a national basis for insuring of police officers estimated from both the FOP and the ICPA.

In terms of the amount of employer paid insurance, estimates of officers within paid insurance brackets are:

	cent of ficers
None	27.50
\$1,000 to \$5,000	38.00
5,000 to 10,000	30,00
10,000 to 15,000	3. 30
15,000 to 25,000	0. 33
25,000 to 30,000	0.07

B. Estimate of costs of S. 33 to Government

Estimates of the costs to the government for regular life insurance and accidental death and dismemberment were development from estimated age distributions and monthly rates per \$1000 of insurance as follows:

Decennial age groups	Percent of officers in decennial 1	Monthly premium per \$1,000
20 to 30	40	\$0.47
31 to 40	35 20	.58
41 to 50	4	2.01
61	1	2.01

¹ Extrapolated from 1960 census. In the 20 to 30 bracket an added 19 percent was included over 1960 to account for new fectuiting and retirement attrition.

These distributions and rates were applied to each of three classifications of public service officers, police, corrections and firefighters. (Only full-time officers were considered).

Federal costs at 1/3 of premium costs were computed as follows:

Public service officers groups		Annual Federa costs (millions
(a) Law-enforcement officers only	_ 385, 105	\$11.6
(b) Law-enforcement officers.	101 050	11.6
Total		14.
(c) Law enforcement. Corrections Firefighters.	_ 104, 058	11. (3. : 6. (
Total		20.

Administrative Costs should be added to the above estimates. It is assumed that the administration staff for the Public Safety Officers insurance program would not be charged with the responsibility of collection of premiums from the individual or from individual municipalities. Otherwise, federal administrative costs would increase substantially since there are upwards of 40,000 agencies responsible for enforcing laws at the state and local levels that would have to be dealt with. Similarly, the great majority of police departments—30,000—are distributed throughout boroughs, towns and villages.

To administer the federal program it is estimated that 69 staff personnel at total annual salaries of \$972,414 would be required. Administrative expenses estimated at \$200,000 annually are estimated for a total administrative costs of \$1,172,414 per annum. This estimate is considered to apply regardless of the mix of public service officers brought into the program.

Such interest earned through the deposit of premiums in the revolving fund to be established by the Secretary of the Treasury would diminish the program costs accordingly.

C. Proposed Legislation S. 2087, Police Officers Benefits Act of 1971

This legislation contemplates death benefits of \$50,000 to survivors/dependents of public service officers killed in the line of duty.

Computations and estimates of costs were made for full-time law enforcement officers, corrections officers and firefighters, although the bill defined only police officers.

Retroactive benefits from 1968 to the present were computed. From these sums, the District of Columbia killed-in-the-line-of-duty deaths were subtracted since they are excluded from the bill under the Part J amendment to Title I of the Omnibus Crime Control and Safe Streets Act of 1968.

KILLED IN LINE OF DUTY, ACCUMULATIVE 1968-71 (\$50,000 PER DEATH)

Public safety officer and year	Feloniously	Accidental	Total deaths	Death benefits	Totals
Police:					
1968	- 64	59	123	\$6, 150, 000	
1969	86	39	125		
1970	100	46	146		
1971	126	46	172	8, 600, 000	
Total	376	190	566	28, 300, 000	28, 300, 000
Corrections:					
1968	12		2	100,000	
1969			2		
1970	12		2	100 000	
1971	16		6	300, 000	
Total (est.)	12		12	600, 000	600, 000

Public safety officer and year	Feloniously	Accidental	Total deaths	Death benefits	Totals
Firefighters: 1968	5 4 4 4	175 204 226 226	180 208 230 230	10, 400, 000 _ 11, 500, 000 _	
Total	17	831	848	42, 400, 000	42, 400, 000
Total public safety officers killed in action			1, 426		71, 300, 000
DISTRICT OF COLUMBIA					
Police: 1967 1969 1970 1971			4 3 0 4		
Total			11	550, 000	
Firefighters: 1968 1969 1970 1971	0 0 0 0	0 0 1 1	0 0 1 1		
Total.		2	2	100,000 .	
District of Columbia deaths deducted			13	650, 000	***********
Total deaths (excluding District of Columbia public safety officer deaths)			1, 413		70, 750, 000

¹ Estimate.

Senator Kennedy. Could we have that submitted, Mr. Chairman? That is a staff study made by the Justice Department on the increased administration if necessary for the adoption of this.

Senator McClellan. It can be received and made an exhibit. I do

not think you need it printed in the record.

Senator Kennedy. No. Do I understand that the administration would not cover the loss of life and limb for someone who has been wounded or harmed in the line of duty? Is that correct?

Mr. Velde. That is correct. The bill as introduced applies only in the case of death. It is a death benefits bill. It does not cover injury.

Senator Kennedy. And it does not cover those who die in the line of duty, who die from natural causes?

Mr. Velde. That is correct.

Senator Kennedy. Mr. Chairman—do you have the figures on the comparison of the costs to the Federal Government of S. 33 and S. 2087?

Mr. Velde. We prepared cost estimates independently. They can certainly be compared to each other, yes, sir. I do not have a single sheet comparing the two, but we could easily provide it for the record.

Senator Kennedy. Could I ask, are the reservations that you have in terms of the administration, the costs on this, the more expansive coverage, the same kind of reservations you have in not approving the firefighters, or do you have a special kind of reason for noninclusion of firefighters as well?

Mr. Velde. There are two reasons why the administration does not favor the inclusion of firefighters. First, by and large, they are not victims of felonious asaults. There are relatively small numbers of firefighters killed in the line of duty that are also victims of a felonious attack.

Senator Kennedy. Then would it not be just as valuable to cover them, to give, once again, the peace of mind to those who are fire-fighters? I think back again to 1967, when there were a number of firefighters who were shot in the violence in the cities in that period. If we are writing legislation that hopefully would be continuing, even though it is a small number, should we not include firefighters as well to try to provide at least some additional peace of mind to their families?

Mr. Velde. The first reason, of course, is that it is a very small number. The second reason is that we feel that the fact would lead to pressures for other public service groups to be covered by these benefits. There certainly is an argument on behalf of their inclusion, but on the other hand, it is felt that this would tend to open the door for other civil servants for coverage and when all is said and done, it

could be a very expensive program.

Senator Kennedy. Well, I just say at this point, I think that the case is strongly made in terms of the law enforcement officials and I would think that the other disciplines would have a difficult time in making their case, as either the police officers or firefighters could, for example, after the 1967 riots. When they came down to testify, they gave us chapter and verse about violence that was committed against them while trying to put out fires in riot-torn areas. I am certainly interested in assuring decent conditions for others within our society, but would you not agree with me that certainly, the firemen, as well as police, thinking back to the 1967 riots, have a rather unique and special position, even against other interests in our society—teachers or municipal workers or others?

Mr. Velde. Yes, sir; I would certainly agree that under some very

limited circumstances, there is an argument.

Senator Kennedy. But I suppose even the limited cirmumstances of people that are losing their lives or limbs or eyes can arise, and it is a serious circumstance as it relates to them. It would only be a few, and then it would not be as costly, certainly, in terms of the Federal participation.

Mr. Velde. That is correct.

Senator Kennedy. I am sure to those who are affected, it is a serious situation.

Mr. Velde. Yes, sir.

Senator Kennedy. Mr. Chairman, I would like to submit some written questions for Mr. Velde if I could and get his response. I know you want to close the record, and I hope his responses could be included in the record.

Senator McClellan. Very well. You may submit them either directly and he can respond or he can submit them to us to place in the record, or you may submit them to the committee if you like and counsel here may handle them and his answers, obviously, can be inserted in the record. Either way.

Senator Kennedy. We will submit them in writing. Senator McClellan. Very well. (The prepared statement of Mr. Velde follows:)

STATEMENT OF RICHARD VELDE, ASSOCIATE ADMINISTRATOR, LAW ENFORCEMENT ASSISTANCE ADMINISTRATION, BEFORE SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURES OF THE SENATE JUDICIARY COMMITTEE ON BILLS CONCERNING COMPENSATION TO PUBLIC SAFETY OFFICIALS AND VICTIMS OF CRIME (S. 16, S. 33, S. 750, S. 1946, S. 2426, AND S. 2748)

Mr. Chairman and Members of the Subcommittee: My name is Richard W. Velde and I am Associate Administrator of the Law Enforcement Assistance Administration. I appreciate the opportunity to appear before you today to discuss the six bills presently under consideration by the Subcommittee—S. 16, S. 33, S. 750, S. 1946, S. 2426 and S. 2748. At the risk of over generalization, I believe that it is fair to say that the bills essentially attempt, in various ways, to provide remedies for, or to compensate, the victims of criminal or hazardous activity. Briefly, S. 16 and S. 2426 would create civil actions and remedies for the victims of certain illegal conduct; S. 33 and S. 1946 would provide group life insurance benefits to certain categories of public servants; S. 750 would provide monetary compensation to persons injured by certain violent crimes; and S. 2748 would provide direct federal death benefits to certain groups of public servants killed in the line of duty. I would like to discuss the bills separately and while so doing give the position of the Department of Justice on each proposal. Rather than treat the bills in numerical order, I will discuss similar bills together.

S. 16 would provide civil remedies to the victims of activities prohibited by Title IX of the Organized Crime Control Act of 1970. As you will recall, Title IX of that Act created in Title 18 of the United States Code a new chapter—Chapter 96—entitled "Racketeer Influenced, and Corrupt Organizations." Basically, the intent of this chapter was to fashion new remedies to deal with the infiltration of organized crime into legitimate business organizations operating in interstate commerce. Both criminal penalties and civil remedies are available. One of the relevant sections of Title IX for today's purposes—§ 1962—contains a three-fold standard to accomplish the objective of the chapter. First, it makes unlawful the use or investment of income from "racketeering activity," or its proceeds, in the acquisition of an interest in an enterprise engaged in interstate commerce; second, it prohibits the acquisition of any enterprise engaged in interstate commerce through a "pattern" of "racketeering activity"; and third, it makes illegal the operation of any enterprise engaged in interstate commerce through a "pattern" or "racketeering activity."

Presently, section 1964 of Title 18 of the United States Code, as added by Title IX of the Organized Crime Control Act, provides certain civil remedies for violations of section 1962, including proceedings by the United States in the district courts to prevent and restrain such violations, and suits for treble-damages by persons injured in their business or property. Also, it establishes collateral estoppel in such proceedings as to any judgment rendered in favor of the United States in a criminal proceeding under Title IX. It should be noted that a criminal

conviction is not a prerequisite for a civil action.

S. 16 would adopt, with appropriate modifications and refinement, additional concepts and language from the antitrust laws and by so doing would expand the available civil remedies. Section 1964 would be amended to permit any person to institute a civil proceeding to prevent or restrain violations and to authorize the court to grant immediate injunctive relief upon the execution of a bond agains damages. Now only the United States can institute injunctive proceedings. Also, the United States would have the power to sue for actual damages in any instance where it is injured in its property or business by reason of a violation of section 1962, without regard to the amount in controversy. An action by any person for treble damages without regard to the amount of controversy also would be permitted. The Attorney General would be empowered to intervene in

¹ Title IX adopted certain legal machinery applicable in antitrust situations. The genesis of this concept of utilizing antitrust techniques to combat organized crime is found in two bills—S. 2048 and S. 2049—introduced by Senator Hruska in the 90th Cong., 1st Session. A subsequent bill—S. 1623, introduced by Sen. Hruska on March 20, 1969—embodied this concept. Hearings subsequently were conducted on S. 1623, and an outgrowth of those hearings was S. 1861 from which Title IX of the Act was derived.

any civil action or proceeding which he determines is a case of "general public importance." In a case in which the United States intervened, it could be granted the same reilef as if it had instituted the action. Collateral estoppel would be extended to include a judgment or decree rendered in favor of the United States in a civil action as well as a criminal proceeding.

The bill contains other important provisions relating to procedural aspects of

these civil actions.

The Department of Justice favors enactment of S. 16. We believe that the extention of civil remedies, as contemplated by this bill, would provide additional valuable tools with which to combat organized crime. Our experience has shown that a two-pronged civil and criminal approach has proved successful in the antitrust area. Organized crime has continued to burden society because, over the years, it has been immensely profitable, and criminal sanctions by themselves do not necessarily reduce the riches. Any legal machinery therefore which would have the effect of rendering organized criminal activity less profitable would take us one notch closer to eliminating the problem. The Department believes that S. 16 would strengthen the existing civil remedies provided by Title IX and accordingly favors enactment.

S. 2426 would also provide civil relief, in this case to any person who has been injured in his business or property because of a violation of section 659 of Title 18 of the United States Code. That section basically proscribes the embesslement, theft, concealment, or unlawful receipt or purchase of any money, goods, chattels or baggage which are moving as an interstate shipment of freight or express.

The principal target of the section is cargo theft.

The bill would permit any injured party to sue in the appropriate district court for treb'e damages. The purpose of the bill, clearly, is to help prevent cargo theft by reducing the profitability. Today, cargo thefts result in an added cost to consumers of approximately \$1.5 billion annually. Here again, criminal penalties do not always affect the profit of these activities, and the aggrieved party is

often no better off after a criminal conviction.

The Department is in favor of enactment of S. 2426. We believe that the availability of a civil remedy could have a dual effect. First, an injured party would be able to more than recoup his actual loss through a treble damage action-Second, the mere fact that such a civil action is possible could act as a strong deterrent against the fencing and purchase of the stolen property. Hopefully, this would tend to decrease the market for stolen property and thereby reduce the profitability of cargo theft, with the ultimate benefit being passed on to the American consumer.

Two of the bills being considered today—S. 33 and S. 1946—would provide a group life insurance program for certain public safety officers. S. 33 would cover policemen, while S. 1946 would include both policemen and firefighters. In all

other respects, the bills are identical.

Both bills closely follow the provisions contained in the Servicemen's Group Life Insurance Statute (38 U.S.C. 765, et seq.) and the Federal Employees' Group Life Insurance statute (5 U.S.C. 8701 et seq.). Their purpose is to establish a group life insurance program for State and local law enforcement officers, and, in the case of S. 1946, firefighting officers, with the risks being assumed by compensated commercial insurance companies. Under Section 8 of the bills, the President may determine the amount of the Federal contribution to the program, subject to a maximum of one-third of the cost of such insurance.

Each law enforcement efficer and, in S. 1946, each firefighting officer participating in the program would be entitled to group life insurance in an amount equal to his annual pay raised to the next higher thousand, plus an additional \$2,000, with a minimum of \$10,000 and a maximum of \$32,000. An equal amount

of accidental death and dismemberment insurance would be provided.

Other provisions of the bills deal with termination of insurance coverage and

conversion rights.

Currently, there is no Federal program of insurance for either local law enforcement or firefighting personnel, and the Administration does not favor such a proposal. Nevertheless, in recognition of the valuable service provided by local law enforcement personnel, and the dangers they face, the Administration did submit to Congress last June a proposal which would provide a \$50,000 death benefit to the survivors of all State and local police officers killed in the line of duty.

Our proposal—S. 2087—was introduced by Senators McClellan and Hruska, and in late September this Subcommittee conducted hearings on the bill. While

I do not intend to make a lengthy statement in support of S. 2087, I would like to discuss it at this juncture because, in many ways, the objectives of the proposal are similar to those of S. 33 and S. 1946. I also would like to explain why we favor

our approach.

Each bill, including S. 2087, recognizes that additional compensation to families of police officers is desirable in certain circumstances. The Administration's bill, however, is designed to provide a type of compensation that is not always otherwise available—a death benefit. Many jurisdictions do not provide such death benefits, with the result being that the survivors of some officers are inadequately compensated. The \$50,000 lump sum payment would provide a minimum Federal floor and would be in addition to any other state or local benefit. This would give each officer the confidence that his family would be well provided for in the event of his death S. 33 and S. 1946, on the other hand, provide benefits that currently are available from other sources. We are not aware that policemen are discriminated against by insurance companies: therefore, they are on an equal footing with other citizens. Moreover, there are existing group life insurance plans available to police officers, and there is no existing impediment to the expansion of this concept at the state and local level.

Moreover, the lump sum death benefit provision of S. 2087 would lend itself to simple administration which the insurance plans would not. The Administration's proposal would be handled with relative ease by LEAA as presently structured, and would not necessitate the creation of a separate administra-

tive organization.

For this reason then, we continue to favor enactment of S. 2087, rather than S. 33 or S. 1946.

Now to the question of coverage. In this context, I will discuss S. 2087 and S.

2748, and indirectly, the relevant provisions of S. 33 and S. 1946.

Initially, the administration favored a death compensation program for police officers only. Our proposal germinated from the fact that policemen increasingly are becoming the targets of violence. Since their primary mission is to enforce criminal laws, they are not free from vicious attacks in even the most routine day-to-day activity. Policemen also are considered symbols of governmental authority, and as such are obvious targets for the few alienated individuals among us. One hundred law enforcement officers were slain in 1970, and well over 80 have been murdered so far this year. This alarming situation exists in just about every section of the country; it is a national problem.

Such is also the case for correctional officers, and we therefore recently recommended an amendment to our proposal to include these individuals. I refer to Mr. Kleindienst's letter of November 4 to Senator McClellan. S. 2748 goes beyond our recommendation, however, and includes firemen. In all other respects, it is identical to the Administration's death benefit proposal. (S. 2748 uses the term "prison guards", rather than "correctional officer", but the concept is the

same.)

The question of whether to include firemen within the coverage of our proposal was carefully considered before S. 2087 was introduced, and has been further considered since the hearings on S. 2087. Unlike police officers, firemen have no responsibility for enforcing criminal laws. Their occupation, while concededly hazardous, rarely includes the element of human violence. In their day-to-day activity, they do not deal regularly with crime and criminals. In addition, they are not the objects of constant attack and harassment because, fortunately, they are not considered representative symbols as are policemen. There appear to be no known conspiracies jeopardizing their physical well being. Accordingly, we do not believe Federal intervention on behalf of firemen is justified because of the general absence of any nexus between their usual work and crime.

This leads me to a discussion of S. 750, the last of the six bills being considered

today.

The proposed legislation would estabish a three-member Commission empowered to compensate the victims of certain violent crimes committed within Federal jurisdiction. In addition, the Commission would be authorized to make Federal grants of up to seventy-five percent of the cost of similar State compensation programs. To the best of our knowledge, only seven states now have a victim compensation program.

When we submitted our report to the Committee on the Judiciary on this bill— September 22—we recommended against enactment until such time as the Department had completed its study of the Final Report of the National Commission on Reform of Federal Criminal Laws. We have not yet completed this study and would consequently recommend against enactment now.

Mr. Chairman, this concludes my formal testimony. I would be happy to

answer any questions you might have.

Senator Kennedy. Thank you very much, Mr. Chairman.

Senator McClellan. Any questions of Mr. Velde at this time?

Senator Thurmond. No questions.

Senator McClellan. Thank you very much, Mr. Velde.

Our next witness is Congressman Jacobs.

Come around, sir.

We welcome you this morning. Please identify your associate for the record.

STATEMENT OF HON. ANDREW JACOBS, JR., A REPRESENTATIVE IN CONGRESS FROM THE 11TH CONGRESSIONAL DISTRICT OF THE STATE OF INDIANA, ACCOMPANIED BY SGT. JACK STONE-BREAKER, JR., NATIONAL LEGISLATIVE CHAIRMAN, FRATERNAL ORDER OF POLICE

Mr. Jacobs. Mr. Chairman, my associate at the table is Sgt. Jack Stonebraker, who is national legislative chairman of the Fraternal Order of Police. Sgt. Jack Stonebraker, I might add, of the Muncie, Ind., police department.

Senator McClellan. Very well. We welcome you, sir.

All right. You have a prepared statement, Congressman. Do you want to submit it for the record or do you wish to read it?

Mr. JACOBS. I prefer to submit it for the record, if I might, and

just summarize it.

Senator McClellan. The statement will be printed in full in the record and you may proceed to highlight it or to make other comments regarding any of the measures before us.

(The statement referred to follows:)

STATEMENT OF CONGRESSMAN ANDREW JACOBS [D-IND.] BEFORE SENATE JUDICIARY SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURES [JOHN L. McClellan, Chairman]

Mr. Chairman, on August 1, 1968, Senator Bayh and I introduced legislation to extend Federal survivors' benefits to the families of police and firemen killed in the line of duty. The legislation which extends coverage under the Federal Employees Compensation Act to all public safety officers would provide up to 75 percent of the decreased officer's base pay to the widow and children until her remarriage and until the children's 18th birthday.

In April of 1968, President Johnson signed Public Law 90-291, which extended coverage under the Federal Employees Compensation Act to all State and local law enforcement officers who are killed while enforcing a Federal law or while

maintaining custody over a Federal prisoner.

It was late in the 90th Congress when Senator Bayh and I introduced our bill; too late, in fact, to solicit Administration support with an eye toward passage in that Congress. So in March, 1969, Senator Bayh and I introduced identical in the 91st Congress. The reaction to our legislation was rapid and gratifying. By mid-summer of 1969 there were 135 co-sponsors in the House of Representatives as well as endorsements from the National Fraternal Order of Police. the International Firefighters' Association [AFL-CIO] and the American Trial Lawyers' Association.

After several phones calls, some prodding, and six months delay, the Administration voiced its opposition to the principle of Federal benefits to the families

of slain local public safety officers in an October 8, 1969 letter from Deputy Attorney General Richard Kleindienst to Chairman Celler:

OFFICE OF THE DEPUTY ATTORNEY GENERAL, Washington, D.C., October 8, 1969.

 $\begin{array}{ll} \mbox{Hon. Emanuel Celler,} \\ \mbox{Chairman, Committee on the Judiciary,} \\ \mbox{House of Representatives,} \\ \mbox{Washington, } D.C. \end{array}$

Dear Mr. Chairman: This is in response to your request for the views of the Department of Justice on H.R. 7989, a bill "To extend benefits under section 8191 of title 5, United States Code, to law enforcement officers and firemen not employed by the United States who are killed or totally disabled in the line of

duty."

Public Law 90–291 (5 U.S.C. 8191–8193) extended the benefits of the Federal Employees Compensation Act (5 U.S.C. 8101 et seq.) to eligible State and local law enforcement officers and their survivors. That law defines eligible officers to include a State or local law enforcement officer killed or injured while seeking or attempting to apprehend a person for the commission of a crime against the United States or as a material witness in a criminal proceeding instituted by the United States. Also eligible are law officers protecting a person held for the commission of a crime against the United States or held as a material witness in connection with such a crime. A final category of eligible law enforcement officer is one who, when injured or killed, was attempting to prevent the commission of a crime against the United States. In all instances, eligibility for compensation pursuant to Public Law 91–291 [sic] is dependent upon some connection between the death or injury of the law enforcement officer and the enforcement of Federal law.

H.R. 7989, recognizing the valuable service of law enforcement officers and firemen throughout the United States, would amend section 8191 of title 5, United States Code, to extend its benefits to professional and volunteer State and local police and firemen, as well as to all other members of legally organized law enforcement agencies. Eligibility for compensation would not be dependent upon any nexus between the injury or death and the performance of a federally

connected activity.

The Department of Justice is unable to recommend enactment of this legislation, despite its high regard for those who risk their lives in law enforcement or fire fighting. If the principle of this legislation is sound, it could apply with equal force to retirement benefits and even salaries of public safety officers. In our judgment it is incumbent upon the States and local communities adequately to compensate such personnel when employed, when injured or killed, and when retired. Further, it would appear to be an unreasonable intrusion into State and local government activities for the Federal Government to underwrite the proposed compensation benefits.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

RICHARD G. KLEINDIENST, Deputy Attorney General.

The Administration persisted in its position to this principle for 20 months, until June 3, 1971:

[From the Washington Post, May 27, 1971]

NIXON, HOOVER DISCUSS POLICE DEATHS

(By Carroll Kilpatrick)

President Nixon summoned Attorney General John N. Mitchell and FBI Director J. Edgar Hoover to his office yesterday to discuss ways in which the federal government can help prevent the slaying of policemen.

White House press secretary Ronald L. Ziegler said after the unexpected meeting that the President feels the recent slayings in New York and Washing-

ton were "tragic" and "reprehensible."

"Mr. Nixon will write letters of sympathy to the families of two New York policemen who were shot in the backs last week and of two Washington policemen who died following gunshot wounds suffered in the line of duty," Ziegler said.

The New York policemen killed last week were Waverly M. Jones and Joseph A. Plagnitini. They were shot after having responded to a call for help in a

Harlem apartment.
In Washington, William L. Sigmon was killed Tuesday when he attempted to apprehend two robbers of the National Permanent Federal Savings and Loan Assn. office on MacArthur Boulevard NW.

Another policeman, Jerard F. Young, was buried yesterday. He was shot in

the head while attempting to make an arrest April 21.

Last November, the President directed the Justice Department "to make available all appropriate investigative resources" to local and state police "when requested in any case involving an assault upon a police officer."

The President said at the time that he had discussed his directive with Hoover

and D.C. Police Chief Jerry V. Wilson.

The President "primarily wanted to discuss the scope of the problem and to see what assistance is being provided," Ziegler said yesterday of the late afternoon meeting.

The FBI's main help is in providing laboratory tests and assisting in out-of-

state leads on those involved in attacks on police, Ziegler reported.

"The President asked me to express his hope that these tragedies will remind people of the debt we owe policemen for many services, of the protection they so se'flessly provide and of the respect and support we owe them for what they do," the press secretary said.

Also attending the meeting in the President's office were John D. Ehrlichman, assistant to the President for domestic affairs, and Egil Krogh, deputy assistant.

Ziegler said that narcotics control also was discussed at the meeting.

MAY 28, 1971.

THE FOLLOWING STATEMENT WAS DELIVERED TODAY BY CONGRESSMAN ANDY JACOBS [D-IND.] AT A NEWS CONFERENCE IN THE CAPITOL

In response to the recent tragedies of policemen killed in the line of duty, President Nixon on Wednesday expressed his hope that "these tragedies will remind people of the debt we owe policemen for many services, of the protection they so selflessly provide, and of the respect and support we owe them for what they do."

I share that hope. And I am encouraged to think that the President's concern might indicate that this administration will reconsider its opposition to my three-year effort to enact legislation to compensate the widows and children of

police officers and firemen killed in the line of duty.

If it does not reconsider, if it does not withdraw its opposition, then one must interpret the true White House message on Wednesday as being, "I can't give you anything but love. . . ."

[From the New York Times, June 4, 1971]

FOR SLAIN POLICEMEN'S KIN

(By Robert B. Semple, Jr.)

Washington, June 3.—President Nixon called today for Federal legislation to provide \$50,000 to the family of any policeman slain in the line of duty.

At the same time, his Attorney General reiterated the Nixon Administration's

opposition to new controls on the sale of handguns.

The new proposal was announced by Attorney General John N. Mitchell at a White House briefing following a morning meeting between the President, nearly two dozen chiefs of police and sheriffs from around the country, Mr. Mitchell, J. Edgar Hoover and several Senators and Congressmen.

The meeting had been called to discuss recent police slayings, to demonstrate the Administration's concern and to unevail the new proposal. By the end of the day, however, the Administration had found itself caught up in new controversies over the motives behind its concern, its stand on gun control legislation and even the composition of the meeting.

Among the prominent absentees were two critics of some aspects of the Administration's policy-Police Commissioner Patrick V. Murphy of New York and Quinn Tamm, executive director of the International Association of Chiefs of Police.

Without going into detail, Mr. Mitchell said that legislation providing a lump sum of \$50,000 to the survivors of slain policemen would be forwarded to Congress soon "in further indication of the Administration's support of law enforcement officers across the country. He said that benefit levels for slain policemen varied widely from state to state and were in some cases insufficient.

The proposal was denounced by Representative Andrew Jacobs, Jr., Democrat of Indiana. He submitted legislation in 1968 that would amend the Federal Employees Compensation Act to provide the widow of a policeman slain in the line of duty 40 percent of her husband's salary plus 15 percent per child

up to a total of 75 percent of the total salary.

Asserting that his version would provide larger annuities, Mr. Jacobs said that the Administration submitted an opinion in October, 1969, opposing his measure as "an unreasonable intrusion into state and local government activi-The fact that the Administration had reversed itself on the question of "intrusion," Mr. Jacobs said, suggested that it wished to gain political profit from the concern generated by the recent shootings.

Mr. Chairman, nearly 200 police officers lost their lives in the line of duty and over 50,000 assaults were made against police officers while the Administration opposed this legislation.

There are several salient features which distinguish and favor the Bayh-

Jacobs legislation over that of the Administration.

(A) S. 1081/H.R. 714 will grant benefits more closely related to need by

basing the annuity in part upon the number of dependents.

(B) The Administration machinery for the implementation of S. 1081/H.R. 714 is extant. In moving the consideration of the Conference Report of what became Public Law 90-291, the Chairman of this subcommittee commended placing the administrative function of that similar legislation in the Department of Labor, to insure that a disparity did not exist between benefits received by a Federal officer and a non-Federal officer killed enforcing a Federal law. I suggest we should not allow a difference between two non-Federal officers, one of whom dies enforcing a Federal law while the other dies enforcing a State law, but both protecting American lives and property.

(C) S. 1081/H.R. 714 include benefits for permanently disabled public safety officers. The Administration proposal does not. Once more, Mr. Chairman, we are faced with a potential disparity. If a local law enforcement officer is disabled by a car thief from across the State line, he will receive Federal benefits. If the automobile was stolen in the State, the benefits will not accrue to him. It would be shameful if a totally disabled policeman under such circumstances

were to wish for the sake of his family that he were dead.

It is well to note that of the 105 claims made to date under Public Law 90-921, nearly one-half [47] have been for disability, 100 police officers are assaulted everyday. Some of these assaults result in no more than a bruise, others in total paralysis. Equity requires benefits for disability as well as death.

(D) S. 1081/H.R. 714 provide for the inclusion of firemen in the Federal Employees Compensation Act. The Administration-backed proposal does not.

In 1970, 115 paid firefighters lost their lives in the line of duty and 38,683 were injured, 195 in civil disorders and an additional 113 as a result of individual acts of violence. 208 firefighters were injured answering and returning from false alarms. 320 firefighters were injured in the line of duty in 1970 to the extent that they had to leave firefighting. 224 left because of occupational disease disability, while another 235 died of occupational disease. Mr. Chairman, according to the F.B.I. statistics for 1970, nearly 10,000 arrests were made for the crime of arson. Though precise figures are not available, all indications point to the probability that deaths and injuries in the line of duty are as high, if not higher, for volunteer firemen. For the purposes of this legislation, amendment should be made to consider volunteer firemen as having a certain GS rating, as is currently mandated for volunteers in VISTA and the Peace Corps who are killed under certain circumstances.

(E) Comparison of the financial benefits which would be paid under the two major proposals for Federal benefits indicate that the annuity method is preferable to the gratuity method. The International Firefighters Association and the

National Fraternal Order of Police have indicated that they would rather see their families receive a monthly annuity check than a lump sum which might well have a tendency to evaporate rather quickly. Even if the \$50,000 gratuity were invested in 6 percent bonds, the yield would be only \$3000 a year, a figure which does not approach 75 percent of the base salary of most public safety officers—nor, for that matter, does it even reach the poverty level of \$3944 a year.

Senator Bayh and I-and, I trust, this Committe and the rest of Congress and most of the country—think the families of those who fall in the fight to make us

safe deserve better than that.

Senator McClellan. Which bill do you direct your testimony to primarily?

Mr. Jacobs. Mr. Chairman, I am directing my testimony to S. 1081,

its companion bill being my own in the other body, H.R. 714.

Senator McClellan. 1081. We do not have that before us.

Mr. Jacobs. I understood the bill is pending before your committee.

Senator McClellan. Has the bill passed the House?

Mr. Jacobs. No, sir. It is a Senate bill and relates to-

Senator McClellan. I believe it is before the Government Opera-

tions Committee, is it not?

Mr. Jacobs. I assumed the staff of your committee arranged it with the staff of my office, sir. I am almost sure the testimony has been taken before this committee on that subject.

Mr. Blakey. Congressman, your staff indicated that you wanted to testify on Kennedy's insurance program. The bill to which your testimony is directed is not before our subcommittee and was not mentioned in the staff consultations about your testimony.

Mr. Jacobs. Well, all I can say is I understood testimony was taken

before this committee earlier on the

Mr. Blakey. The testimony previously, Congressman, was in refer-

ence to 2087, which is the \$50,000 death benefit bill.

Mr. Jacobs. If I may proceed, Mr. Chairman, I want to comment on that, too. This is an alternative approach.

Senator McClellan. Very well. I was trying to identify and relate it to something. We will be glad to hear you.

Mr. Jacobs. It does indeed relate to the Administration's so-called \$50,000 compensation. It is an alternative.

Senator McClellan. Very well. I was only trying to identify the subject matter to which you are directing your testimony. We are glad to have you testify.

Mr. Jacobs. I think I understand now the confusion, because as I

say, it does relate to the Administration's proposal.

Mr. Chairman, in April of 1968, Public Law 90–291 was enacted extending to the families of police officers who were killed in the line of duty, if they happened to be enforcing a Federal law or guarding Federal prisoners at the time of their death or disability, the benefits of the Federal Employees Compensation Act. It occurred to me during my own service as a police officer some years ago—that the distinction between the death of an officer, a local officer enforcing a Federal law. and the death of a local officer in the line of duty enforcing any other criminal law was a very thin, very technical distinction. When you stop to consider that if an automobile is stolen in the District of Columbia, for example, and taken across the 14th Street Bridge into Virginia and a police officer serving the State of Virginia is then killed in his attempt to apprehend the felon, he would be covered by Public Law

90-291 and the benefits of the Federal Employees Compensation Act would be extended to his family. But if that automobile were stolen just across the 14th Street Bridge in Virginia and precisely the same scenario took place in an attempt to apprehend the felon, he would

not be covered by Public Law 90-291.

It occurred to me at that time that the Congress, having made the judgment that any crime committed in the United States is a national problem or, putting it more specifically, when a police officer dies in the fight against crime, he is literally dying for his country, in that a police officer in one jurisdiction may well give his life protecting the lives of citizens from another jurisdiction, the Congress made the

judgment that crime is a national problem.

In August, then, of 1968, I introduced legislation in the House of Representatives. Senator Bayh, my Senator from Indiana, introduced companion legislation in the Senate, to provide that those benefits from the Federal Employees Compensation Act be extended to any police officer or any fireman killed in the line of duty. Those benefits are 40 percent of the salary that the police officer was receiving at the time of his death or disability for the widow, and 15 percent of

that salary for each child up to 75 percent of that salary.

Well, in August 1968, it was a little late to get an opinion from that administration. The legislation was reintroduced in both the 91st and 92d Congresses and in a letter dated October 1969, the Justice Department opined against the legislation extending these benefits to the families of police officers killed in the line of duty not specifically involving Federal crimes in a letter signed by Deputy Attorney General Richard G. Kleindienst, the significant portion of the letter being this quotation:

Further, it would appear to be an unreasonable intrusion into State and local government activities for the Federal Government to underwrite the proposed compensation benefits.

That was, as I say, in October 1969.

On May 27, 1971, the President issued a statement reminding every American of the debt that is owed by citizens to the families of police officers who are killed or totally disabled in the line of duty.

On May 28, I suggested publicly that in view of the President's opinion, he reverse the position of the national administration and

support compensation for all officers killed in the line of duty.

On June 4, 1971, the administration did propose the bill which is before your committee now to give compensation to widows of policemen killed in the line of duty in an amount of \$50,000—lump sum—once and for all. The question then occurs as to which is the more reasonable approach from the point of view of the debt that we owe to these officers and their families and in terms of administrative convenience to the Federal Government.

Let me point out that the bill to which I direct my testimony merely removes the qualification of Federal crime involvement from a statute which is already in existence, already in operation, already paying compensation to local police officers, and administered by the Labor

Department.

Senator McClellan. Congressman, I am sorry to interrupt you. We just received a signal of a rollcall vote in the Senate. We will have

to suspend for a few minutes. We will run over and vote and hurry right back.

Mr. Jacobs. That is very kind of you, sir. I understand.

Senator McClellan. We have one other witness. We will come back and try to finish.

Mr. Jacobs. I think I can summarize fairly quickly, sir.

(Recess.)

Senator McClellan. Mr. Jacobs?

Mr. Jacobs. I will proceed as quickly as I can. I assume I can pick up where I left off.

Senator McClellan. Yes, indeed, Congressman. I am sorry about

this delay, but you understand better than anyone.

Mr. Jacobs. Perfectly. I was just saying to my friend here I have been an admirer of yours for quite some time, back to the fifties.

Senator McClellan. Thank you very much.

Mr. Jacobs. I have just three more points I want to make. These are comparative points, Mr. Chairman, with the administration's bill and

with the bill that I am describing here.

The disparites that disturb me most are, one, the administration bill—I think it is S. 2087—does not cover the widows of firemen killed in the line of duty. Now, I understand there has been some testimoney on this subject. Let me just say that 208 firefighters were injured answering and returning from false alarms last year; 113 were injured from purposeful acts of violence by other individuals against them when they were doing nothing more than trying to put out fires. There were 195 firefighters injured in civic disorders in 1970. According to FBI statistics nearly 10,000 arrests were made in 1970 for the crime of arson.

Well, that is just an example. I think that when a fireman, particularly in this day and age, is killed in the line of duty, he is killed protecting the public, protecting life and property, all this with the advent of senseless attacks on a man who is doing nothing more than

trying to put out a fire.

Point No. 2 that disturbs me and a disparity between the two bills is the fact that the administration proposal does not cover disability of police officers. I mean a man can be a paraplegic, for example, a bullet can catch in the spine and he can be a wheelchair case, unable to move any part of his body, and he would receive no benefits at.

all under the administration proposal.

Of course, under the propsal that I advance, he would, under the Federal employees compensation statute, and they are receiving them now if the policeman happens to be enforcing a Federal law at the time. I take it that is not much of an issue any more; the administration has withdrawn its objection to the theory of aiding local police officers whether they are involved in the enforcement of a Federal law or not.

Finally, there is the question of the benefits themselves. I would think \$50,000 sounds pretty impressive to the average person for a widow to receive if her husband falls in the battle against crime. But I am afraid that it tends to follow the very problem that so many of us who have been in police work and others who have followed closely have lamented for many. That is that a policeman is killed. His widow becomes queen for a day. She is celebrated in the

newspapers and she is sympathized with for the sacrifice that she had made. But after all, she was the wife of a low-income man. In a week or a month or a year later, she may well become one of those welfare loafers that we hear so much about. What a sad fate for someone who has made the kind of sacrifice that such a lady and such children have made.

Now, \$50,000 invested at 5 percent is \$2,500 a year. That is not

enough to bring up children on or for a widow to live on.

This other proposal in summary would give 75 percent of the salary for a widow with at least three children, or 15 percent for each child less than three children, 75 percent of the salary, would take care of the policeman or fireman who is totally disabled in the line of duty.

And I think it is just little enough to do for these people.

Finally, Senator, there is one technical point. This bill provides that any benefits provided under the Federal Employees Compensation Act would be reduced by benefits which are already supplied by the States. That is the way the law is operating this very moment. I would suggest an amendment to this bill, that the States be required to meet some minimum requirement, some minimum standard of compensation for those widows and children before that State could qualify to come under this act.

Now, Senator, if I might just ask Sergeant Stonebraker, who is national legislative chairman for the Fraternal Order of Police just to say a few words.

Senator McClellan. Very well, Sergeant.

Sergeant Stonebraker. Thank you, Senator. I will say this, that we in the professional law enforcement field feel that we serve the citizens of the United States on the home front as the thin blue line, very much as the military does on foreign soil. We feel that we serve to provide citizens with the protection of life, liberty, property, and the pursuit of happiness. We feel that benefits should be forthcoming, that officers and dependents of police officers should be provided with some compensation.

I think this has been gone over pretty well for you, sir. I would just like to read this for the record, because I feel that while the word "fireman" could be inserted here, it was written as a police officer by a police officer to those who have given their life and I think the

thought into it is very deep and has much concern.

It says:

Someone killed a policeman today and a part of America died, a piece of our country he swore to protect will be buried by his side. The beat that he walked was a battlefield, too, just as if he had gone off to war. Though the flag of our Nation won't fly at half mast, to his name, they will add a gold star.

The suspect who shot him will stand up in court,

With counsel demanding his rights,

While a young widowed mother must work for her kids

And spend many long lonely nights.

"Yes, somebody killed a policeman today,

Maybe in your town or mine,

While we slept in comfort behind locked doors,

A cop put his life on the line. "Now his ghost walks the beat

The dark, lonely street, and he stands at each new rookie's side.

He answered the call, of himself gave his all,

And a part of America died.

Senator, I feel that the part of America that dies has some remuneration coming and we would like to endorse the Congressman's bill and support his stand on the \$50,000 benefit.

Thank you.

Senator McClellan. Thank you. Thank you very much.

Anything further, Congressman?

Mr. Jacobs. Nothing at all. We appreciate the opportunity to appear, Mr. Chairman.

Senator McClellan. We appreciate having the benefit of your views, and counsel will see that your statement appears in the proper place.

Mr. Jacobs. Thank you, sir.

Senator McClellan. Next is Mr. Van Rensseleur.

We are happy to have your testimony, We are sorry about the delay and the interruptions.

Do you have any prepaid statement?

STATEMENT OF STANLEY L. VAN RENSSELEUR, CHAIRMAN, CRIME VICTIMS COMPENSATION BOARD OF NEW YORK STATE, ALBANY, N.Y.

Mr. Van Rensseleur. No, I don't.

Senator McClellan. You may identify yourself for the record.

Mr. Van Rensseleur. I am chairman of the Crime Victims Compensation Board of New York and have been since its inception in 1957. We are very happy to be able to come here, hoping that we can

contribute something.

As you well know, we endorse this whole concept of compensation for victims of crime. I would like to say at the very beginning, I realize, having been in the State legislature, that all can't be done in a committee hearing of this type and accordingly, would like to suggest that whatever we may do or can do in the State to help in any legislation along this line, we will be glad to cooperate in any way that we can.

Mr. Blaker. If I could interrupt there, Mr. Chairman, for the purpose of the record, Mr. Van Rensseleur's testimony will necessarily be truncated, but I would want it to indicate—he has been very kind and very helpful and has provided us a great deal of information and has promised to help us in working up some preliminary drafts. I would like to express at least the staff's appreciation to him for that.

Senator McClellan. Thank you very much. I am glad to be advised of your interest and efforts and the cooperation you have already given.

Mr. Van Rensseleur. Thank you.

We would like to make some observations, and may I say at this point, these will be based upon our experience under our present statute. Without being critical of any bill or any concept that may be developed now or later on concerning this, we feel our bill, which is really administered by three board members who are full time, is the correct way to have such a board to really meet the problems as they arise.

We also feel that the limitations within our bill, both the minimum requirements as well as the eligibility requirements, are well written and have been well administered and can continue to be well administered.

Just let me say, when we receive an inquiry, we furnish the claim form, which, if it is answered, will establish the minimal statutory requirements to see if we have even a valid claim to go on. Then we put the burden on the claimant. We say, Mr. Claimant, since you feel that you have a claim and you are requesting some money from the State, then it is your responsibility to furnish certain information which you can. And at this point, believe me, claimants can do a great deal more in getting certain information, particularly statements and reports from doctors, than the board or its staff can do.

If and when we receive that information, then and only then do we assign it to an investigator for any field work, thereby keeping that area down so that most of our decisions are based upon documentary evidence which has been furnished from the doctor, from the hospital, whomever it may require. And a single board member makes the

decision.

Following that, the decision is sent to the claimant and he has 30 days in which to say, I am dissatisfied. He does not even have to give us a reason. We will set up a full board hearing. We think it has been very helpful, very fruitful. Honestly, we have to admit we have made mistakes. Claimants have come in and we have rectified those mistakes. We have no provision in our statute for any court action or appeal to it other than on the Government's side, which is not important here. We are only talking about the claimant himself.

Also, our emergency award provision has been found very helpful because we can keep a claimant from being evicted if we find in the initial stages we have a valid claim and there is probability that we will make an award, we can make an emergency award which will

take care of that.

Also, the confidentiality of the Board's records only to the extent that they are protected by the State law. Otherwise, our records are open. We are not an adversary proceeding. We will work just as hard to see that a claimant gets what he is entitled to, but we will work equally hard to see that no one gets it if he is not entitled to it and he is not the innocent victim of a crime. I think that has to be the key to such a program as we have here.

In addition, perhaps our board is not named correctly. We say compensation. We are essentially a reimbursement board and we feel that that is the right and the proper approach, to pay the unreimbursed

medical expenses and to pay the loss of earnings.

Medically, we have no limit on it. And at this point, I must say we are considering putting a limit on it because of the cost of the medical, the way they are going, and to limit that perhaps under something like medicaid. Because our statute does not permit us to say to a doctor, medicaid says so much; therefore, you can only charge so much. But in that area, we feel that we could also cut down the claims.

We also feel that in the death and the protracted, the periodic payment is the right way to do it, rather than make a lump sum award, which in our case would be \$15,000 in the case of a man killed. We establish what the loss of earnings is and then we take out, of course, sums received from social security, pensions, whatever it may be, and pay the difference up to the amount of the \$15,000. We feel you must have minimum standards. We feel that the crime reporting is most important. We have had very little bad experience. I would have to say that 99 percent of the claims, the crime has been reported. But we do find situations where a claimant says that he was injured but the crime was not reported until a matter of perhaps several months, which indicates there is something else.

Also on exclusion, we think that our statute, which precludes anyone from the third degree of consanguinity or affinity or a member of the household from receiving any money from this board, and I think it is only fair that there should not be, let us say, the so-called unjust

enrichment theme.

I think these statutes should be written in such a way that the board or the commission has the opportunity within the framework and the declaration and the intention of the statute should be able to make rules and thereby move as they need to as the program develops.

We have found that you cannot write a statute that will cover every possible consequence or happening in the future, and therefore, you must give the discretion to your board. And it is important, as you well

know, Senator, when it comes to drafting.

One last thing. I do not know that anyone has gone into it to any extent and I do not mean to prolong this. But I do feel that this statute has a direct relationship to the administration particularly of the criminal law. I have had any number of letters. When they found out about our board, they would write in and say—this is the victim—we are glad someone cares. We are glad that the State did this. Now we know. And they will be more willing witnesses for the DAs and we have stressed that, particularly with the detective squads of all of the law enforcement agencies in our State. I have no figures to say how successful it has been, because we have not been able to make a survey. But there is no question in my mind that if the victim is lying in the bed with pain and the detective wants to take a statement, he could not care less about it at that point. But perhaps later on he gives his statement. But then he is very unhappy when he has to lose a day's work to go to court and perhaps testify or not, sees how the criminal has been treated and all the services that have been furnished the criminal, and all the district attorney can do, Mr. Chairman, is say, John Doe, you are a good citizen, you have fulfilled your citizenship. But he is left with bills unpaid, he is left with scars, he is left with pain and maybe he has lost his job and is in debt. I think that is one of the things, knowing your interest in all of this crime legislation, certainly, Senator, we should be able to sell that better than we have.

Secondly, and lastly, I would like to say with respect to the part of Senator Mansfield's bill concerning grants, we would hope that any Federal legislation in that area of making grants to the States would allow the States to operate under their own programs as they may see them and to qualify. With the standards that are set up in this present bill, I may be presumptuous, but I doubt that any State could qualify. I doubt it very sincerely. I have gone over this with my board members. I have also asked a couple of fellows who are law professors, and they agree that unless all the provisions of the Mansfield bill were fulfilled, the State grants can be of no value whatsoever. But we do have to look at it in that light, that the States are the ones who are primarily responsible to their own citizens and if the Federal Government sees fit, hopefully it will, then let the States qualify for any Federal grant

under its own statute, and I think again that if we allow that to happen, and I know you are going to have to have Federal standards—I do not mean to get into that, but I feel very definitely that you will have more and better results. And there are perhaps six or eight States now, some of whom have had bills, some of whom are preparing bills. They are anxious to get into this, but as has been said by some of your previous witnesses, the figures scare them. All you have to do is look at the FBI crime reports on the number of crimes and, therefore, you immediately conjure up all of these figures that are astronomical.

Now, they have not hit that astronomical figure over the past 5 years. But they are continuing to grow in the number of claims each year. I would have no way of knowing when we might reach the plateau where it would level off. I can only say that the chairman of the English scheme, who has been in touch with me, has said their's started in 1964

and they think they are leveling off at this point.

Senator McClellan. That is another rollcall vote.

Mr. Van Rensseleur. Well, any questions, other than that, I do hope we can be of some help. I hope that our thinking can. I do feel, and again, I do not mean to be presumptuous, I do not understand, Senator, the Federal grant being in this type of bill. I do not see what a board who is going to administer crime victims compensation should have to do with making grants to the States. It seems that you have at present—I do not know really what to call them, but you have processes here and I think one of them is under your law enforcement act. You have a staff that has been making grants to States for, let's say, police training, and so on.

Senator McClellan. The LEAA.

Mr. VAN RENSSELEUR. I do not know. There might be some valid

reason to consider that.

Senator McClellan. I see. Well, thank you very much. I am sorry about these interruptions. Senator Bible, whose bill, S. 2426, is included in these hearings, was unable to be present and has submitted a statement for the record. This will be printed following the conclusion of today's hearings.

The hearing is adjourned subject to the call of the Chair.

(Whereupon, at 12:20 p.m., the hearing was adjourned subject to the

call of the Chair.)

(The following material was subsequently received for inclusion in the record:)

MARCH 25, 1971.

Hon. Evelle Younger, Attorney General, State of California, Sacramento, Calif.

Dear Mr. Attorney General: Enclosed is a copy of S. 750, a bill I introduced recently in the Congress, together with a brief section-by-section analysis of its provisions. This proposal would create a compensation program for victims of

crime within the federal jurisdiction.

Because the State of California has a program that compensates victims of crime, I would appreciate very much your comments on S. 750. In your appraisal, I would hope you could include such matters as a general comparison of the features of S. 750 with the program presently operating in your State. For the implementation of a plan at the federal level, it would be most helpful also to have specific suggestions based upon your State's experience with such a program, including the costs of the program.

gram, including the costs of the program.

You will note that S. 750 proposes as well to assist in underwriting the costs of comparable compensation systems within State criminal jurisdictions through-

out the nation. I would thus appreciate your views on how best to meet this objective. Finally, any other thoughts you may have on this matter would be greatly appreciated. I would be gratified also if you could report on this—at least in a preliminary way—within a month.

Thank you very much for your cooperation in this matter.

Yours very truly,

MIKE MANSFIELD, U.S. Senate.

OFFICE OF THE ATTORNEY GENERAL,
DEPARTMENT OF JUSTICE,
Sacramento, Calif., April 2, 1971.

Hon. Mike Mansfield, U.S. Senate, Office of the Majority Leader, Washington, D.C.

DEAR SENATOR MANSFIELD: This will acknowledge receipt of your letter of March 25, 1971, requesting our comments on S. 750 which would create a compensation program for victims of crime within the federal jurisdiction.

This matter is receiving our immediate attention and you will be advised of our

conclusions as soon as possible.

Very truly yours,

EVELLE J. YOUNGER,
Attorney General.
JAN STEVENS,
Deputy Attorney General.

OFFICE OF THE ATTORNEY GENERAL,
DEPARTMENT OF JUSTICE,
Sacramento, Calif., June 24, 1971.

Hon. MIKE MANSFIELD, U.S. Senate, Washington, D.C.

DEAR SENATOR MANSFIELD: You have requested some information pertaining to California's experience in its program relating to aid to victims of crimes of violence.

Out of a population of approximately 20,000,000, there were in the fiscal year 1970–71 approximately 60,000 reported felonies involving injuries to person.

From the time the Board of Control began administering the program in 1967, we have received a total of 1,366 claims. Three hundred seventy-four claims have been allowed for a total payment of \$630,097. Seven hundred forty-three claims have been denied and 249 are pending.

Our department has allocated the sum of \$50,000 per year to investigate and assist in administering the program. It is impossible to give you an estimate of the cost incurred by the Board of Control itself in administering the program as their functions are diverse. However, they have indicated that it takes at least one full-time employee in addition to the time of the Secretary to the Board and the three Board members.

We hope that the above information is what you desired.

Very truly yours,

EVELLE J. YOUNGER,
Attorney General.
A. M. Skrocki,
Deputy Attorney General.

March 25, 1971.

Hon. Francis Burch, Attorney General, State of Maryland, Annapolis, Md.

DEAR MR. ATTORNEY GENERAL: Enclosed is a copy of S. 750, a bill I introduced recently in the Congress, together with a brief section-by-section analysis of its provisions. This proposal would create a compensation program for victims of crime within the federal jurisdiction.

Because the State of Maryland has a program that compensates victims of crime, I would appreciate very much your comments on S. 750. In your appraisal, I would hope you could include such matters as a general comparison of the features of S. 750 with the program presently operating in your State. For the implementation of a plan at the federal level, it would be most helpful also to have specific suggestions based upon your State's experience with such a program, including the cost of the program.

You will note that S. 750 proposes as well to assist in underwriting the costs of comparable compensation systems within State criminal jurisdictions throughout the nation. I would thus appreciate your views on how best to meet this objective. Finally, any other thoughts you may have on this matter would be greatly appreciated. I would be gratified also if you could report on this—at

least in a preliminary way-within a month.

Thank you very much for your cooperation in this matter.

Yours very truly,

MIKE MANSFIELD, U.S. Senate.

THE ATTORNEY GENERAL, Baltimore, Md., May 25, 1971.

Hon. Mike Mansfield, Majority Leader, U.S. Senate, Washington, D.C.

Dear Senator Mansfield: Thank you for sending me a copy of S. 750 which provides for the compensation of crime victims within the federal jurisdiction. Maryland has had legislation to compensate victims of violations of the criminal laws of the State since 1968. In response to your request, our law is summarized below.

Chapter 455 of the Laws of 1968 added new Article 26A to the Annotated Code of Maryland (1966 Replacement Volume), title "Criminal Injuries/Compensation Act", effective July 1, 1968. A statement of policy reflects the recognition of the legislature that innocent persons are killed and injured as a result of crimes and attempts to prevent crimes or apprehended crimnals, that innocent victims of crime suffer physical disability and monetary losses, and that the State should provide them with financial assistance.

A "crime" for the purposes of the statute is any act described as a crime in Article 27 of the Maryland Code (1967 Replacement Volume) or at common law, except that motor vehicle violations are not to considered as crimes unless a

motor vehicle was intentionally used as a criminal instrument.

The Criminal Injuries Compensation Board is created as part of the Department of Public Safety and Correctional Services. It consists of three members appointed for five-year terms by the Secretary of Public Safety and Correctional Services with the approval of the Governor and the advice and consent of the Senate. One member must be a lawyer with not less than five years' practice in Maryland immediately prior to his appointment. The initial appointments are for staggered terms. The Secretary, with the approval of the Governor, designates the Board chairman, and the members of the Board are required to devote as much time as necessary to their duties. Their salaries are as provided in the budget.

The Board appoints its employees and they are under the Merit System. The Board is authorized to promulgate rules and regulations for the administration of the Act, including rules for the approval of attorneys' fees. The Board may request assistance from the State's Attorney and any police department in the State to investigate and assist in the determination of claims under the Act. The Board may hold hearings, administer oaths to witnesses, require the production of documentary evidence, direct medical examination of victims, and may reopen or reinvestigate cases. The Board may take affidavits or depositions within or without the State. An annual report is required to the Governor, the Secretary of the Department, and the Legislative Council.

The following are eligible for awards:

1. A victim of a crime;

2. A surviving spouse or child of a victim who died as a result of a crime;

3. Any other person dependent for principal support upon a victim;

4. Any person injured or killed while trying to prevent a crime in his pres-

ence or trying to apprehend a person who had committed a misdemeanor in his presence or had, in fact, committed a felony;

5. A surviving spouse or child of a deceased person described in number 4; 6. Any other dependent of a person killed trying to prevent a crime or trying to apprehend a person who had committed a misdemeanor in his presence or had, in fact, committed a felony.

An award may not be made to any person criminally responsible for the crime upon which a claim is based or an accomplice or relative of such person.

A claim may be filed by a person eligible for an award, or by the parent or guardian of an eligible person who is a minor; if mentally incompetent by guardian or other person authorized to administer his estate. The claim must be filed within 180 days after the crime or death of the victim but the Board may extend the time for good cause. A claim may be filed in person or by mail to the Secretary of the Board. When a claim is filed, the Board must notify the State's Attorney where the crime occurred. If the State's Attorney advises within ten days of the pendency of prosecution, proceedings under Article 26A are to be postponed until after conclusion of the prosecution. The Board may grant emergency awards. A claimant must sustain minimum out-of-pocket loss of \$100.00 or at least two continuous week's earnings or support to be eligible for an award.

Decision on a claim may be made by one Board member; same as to multiple claims arising out of the same incident. All records bearing on the claim are to be examined by the Board member who is responsible for the conduct of a full investigation. Claims must be investigated and determined regardless of the apprehension of the alleged criminal or the outcome of prosecution. The Board member may render a decision on the basis of documentary evidence presented and the report of investigation. If unable to decide on this basis, he must order a hearing. All relevant evidence not privileged is admissible. The Board member's decision and the reasons therefor must be filed in writing. The Secretary must

furnish the claimant, upon request, with a copy of the decision.

Within 30 days the claimant may apply to the full Board for consideration of the decision. The Board must review the record and affirm or amend the action of its member. Such full Board action is final. If no application to review is filed, the single Board member's decision becomes the final decision of the Board. The Board Secretary must promptly notify the claimant, the Secretary of Public Safety and Correctional Services, the Attorney General, and the Comptroller of

the Equal decision and furnish copies.

Within 30 days of receipt of the Board's final decision the Attorney General, on his own motion or at the request of the Secretary of Public Safety and Correctional Services, may file a court action to review the Board's decision. Such proceeding has priority on the docket of the court, which may take additional testimony if it so desires. The proceeding is started by serving notice upon the claimant and the Board, and the decision of the court is final.

In hardship cases emergency awards not exceeding \$500.00 are authorized, the amount to be deducted from any final award and, if in excess of the amount of a final award, the claimant must repay the difference. Prerequisites to an

award are a finding that

1. A crime was committed;

2. Physical injury or death of the victim as a direct result;

3. Police records showing a prompt report of the crime.

No award may be made where a report was made more than 48 hours after the crime unless the Board finds the delay resulted from good cause. The Board has discretion to deny or withdraw any award if it believes that the claimant or award recipient did not fully cooperate with the police. Awards are based upon the schedule of benefits and degree of disability stated in the Maryland Workmen's Compensation Act. Awards may be apportioned among two or more persons and are to be reduced by the amount of other payments from the person responsible for the crime and any other public or private source. The Board must consider any conduct of the victim contributing to his injury in deciding the amount of an award, which may be reduced or rejected on such basis in the Board's discretion. If the Board, upon taking all the claimant's financial resources into consideration, finds that he will not suffer serious financial hardship if not granted an award, they must deny any award.

Awards are to be paid in accordance with the provisions of the Maryland Workmen's Compensation Act. Awards are exempt from execution and attach-

ment other than for expenses resulting from the victim's injury. The Board must preserve the confidential nature of any records or reports protected by law which

were obtained for the purpose of its investigation.

To the extent of any award the State has subrogation rights in any suit or claim of the claimant or victim to recover damages for his losses or injuries. False claims are punishable as a misdemeanor upon conviction by a fine of \$500.00 and/or one year in prison; also, forfeiture of any benefits received and reimbursement of any payments made by the State.

I am enclosing a copy of the full text of our law and of the Report to the Governor of the Maryland Criminal Injuries Compensation Board for the year ending June 30, 1970, which is the latest available report. I have noted your request for suggestions how best to implement the federal plan in the light of our State experience. However, since this office does not administer the State compensation statute, I regret that I am unable to comply with your request. I hope that the information contained herein will be useful to you and if I can provide further assistance please let me hear from you.

Sincerely,

Francis B. Burch, Attorney General.

CRIMINAL INJURIES COMPENSATION BOARD, Baltimore, Md., June 22, 1971.

GOVERNOR'S COMMISSION ON LAW ENFORCEMENT

	1969	1970
Murder Rape Robbery Assault	9. 3 30. 0 290. 0 312. 0	9. 7 25. 0 348. 0 266. 0
Total	645. 0	648.0

The 1971 figures haven't been compiled as of yet. Statistics are based on per 100,000.

	Claims	Paid out
1969-70	240 314	42 145
1970–71		

Fiscal year	Collected	Expended Award
1969.	118, 948. 60	None 328.000.0
1970.	135, 438. 75	66, 151.13 328.000.0
1971 .	148, 000. 00	215, 000.00 614, 283. 3
1971 (estimate).	163, 000. 00	300, 000.00 850, 000.0

Note: Statute was amended—liberalized payments to claimants without an average weekly wage. We anticipate continued rise in claim payments.

APRIL 15, 1971.

Mr. DENNIS C. McCoy,

Commissioner, Criminal Injuries Compensation Board, State of Maryland.

Dear Mr. McCoy: Thank you for your letter of April 7, concerning the Crime Compensation measure and the article appearing in the U.S. News and World Report. I have been in contact with Chairman McClellan of the Senate Subcommittee on Criminal Laws and Procedures. It is my understanding that following the August recess of the Congress, there very likely will be some hearings that will include the consideration of the Crime Compensation measure.

At an appropriate time I will indicate your interest in testifying to Chairman McClellan. I appreciate your kind offer very much. Thank you for your cooperation.

Sincerely yours,

MIKE MANSFIELD.

STATE OF MARYLAND, CRIMINAL INJURIES COMPENSATION BOARD, Baltimore, Md., April 7, 1971.

Re: Federal Violent Crimes Compensation Commission.

Senator M. Mansfield, Senate Majority Leader,

Scnate Office Building, Washington, D.C.

Dear Senator Mansfield: I read with great interest an article in the April 5th, 1971 edition of *U.S. News and World Report* concerning legislation proposing compensation for victims of crimes. As you know, Maryland has had such a program for approximately three years. I am presently one of the three Commissioners that administer the program and have served in that capacity for approximately $2\frac{1}{2}$ years having been appointed by the Honorable Marvin Mandel.

It is my understanding that hearings will be conducted concerning this legislation and I would be pleased to testify before those hearings as to the Maryland experience and practical aspects of the compensation scheme if you believe such testimony would be of value.

Very truly yours,

DENNIS C. McCoy, Commissioner.

U.S. ATTORNEY, DISTRICT OF MARYLAND, Baltimore, Md., February 19, 1972.

Senator MIKE MANSFIELD, Senate Office Building, Washington, D.C.

Dear Senator Mansfield: As a former member of the three-man Criminal Injuries Compensation Board for Maryland I noted with great interest your

introduction of S. 750 on Thursday, February 11, 1971.

My experience with the Maryland scheme during the first two years of its operation persuaded me that compensation programs can be economical to operate, accessible to the public and not encumbered by the complexity or the delays which are customarily associated with judicial or other administrative proceedings. Your proposal is a salutary recommendation because it appears to incorporate the desirable characteristics of other existing compensation plans.

You might be interested in the attached Annual Report of the Maryland Board which provides some statistical information about the number of claims presented for investigation, the amount of money awarded and the average payments made during the first full year of the Board's operation. I will be happy to assist you or your staff in presenting supporting information for your proposal. The proximity of this office to Washington is such that your staff is welcome to personally review my files, to visit our Commission offices to talk with our Executive Director or for us to appear personally at Senate Committee hearings.

Please feel free to call on me for assistance.

Very truly yours,

GEORGE BEALL.



STATE OF MARYLAND

Criminal Injuries Compensation Board

FIRST ANNUAL REPORT



1969



STATE OF MARYLAND CRIMINAL INJURIES COMPENSATION BOARD FIRST ANNUAL REPORT 1 9 6 9

Joseph Pickus Chairman

George H. C. Arrowsmith Dennis C. McCoy Commissioners

> Martin I. Moylan Executive Director

STATE OF MARYLAND CRIMINAL INJURIES COMPENSATION BOARD 1123 N. EUTAW STREET 601 JACKSON TOWERS

BALTIMORE, MARYLAND 21201 (301) 523-5000

Joseph Pickus Chairman

George H. C. Arrowsmith Dennis C. McCoy Commissioners Martin I. Moylan Executive Director

TO:

Honorable Marvin Mandel Governor of the State of Maryland Colonel Robert J. Lally Secretary

Department of Public Safety and Correctional Services HONORABLE LEGISLATIVE COUNCIL State of Maryland

Gentlemen:

I have the honor to submit the first report of the Criminal Injuries Compensation Board for the fiscal year of 1970, rendered pursuant to the provisions of Article 26A of the Annotated Code of Maryland.

Respectfully, JOSEPH PICKUS Chairman

Baltimore

Dated: January 15, 1971

FIRST REPORT OF THE CRIMINAL INJURIES COMPENSATION BOARD STATE OF MARYLAND

TO:

Honorable Marvin Mandel
Governor of the State of Maryland
Colonel Robert J. Lally
Secretary
Department of Public Safety
and Correctional Services
Honorable Legislative Council
State of Maryland

Gentlemen:

We have the honor to submit this, our First Report:

I. Administrative Background, Etc.

This report covers the period of July 1, 1969 through June 30, 1970. It is the first year of the Board's existence. The first six months of the fiscal year were spent in the creation of the agency itself. It was necessary for the Board at the out set to appoint an Executive Director, who along with the Board endeavored to find office spaces for the Board, purchase equipment, work out immediate budget problems, administrative procedures and establish claim procedures, set up the books and records for the Board, established Rules and Regulations and printed and promulgated them. It was also necessary to create, develop and have printed the many claim forms and letters which it now uses. And last, but not least, it was necessary to make a determination as to what kind and types of employees would be needed by the Board to conduct the business of the Board.

The Board decided that two investigators, an accountant clerk and a stenographer would be needed by the Board to conduct its businesses. The stenographer was hired immediately and the two investigators came with the Board sometime after January, 1970.

It was necessary for the Executive Director to set up and conduct an on the job training program for the investigators as a result of which they were able to conduct investigations for this Board by April 1, 1970. In view of the complexity of the statute, it is anticipated that the investigators will not be fully trained until sometime after January 1, 1971. It will also be necessary to train the accountant clerk in a similar fashion.

II. Categories of Awards

We shall set forth later in this report an analysis of the claims, together with the type of crime committed, as well as separate the claims generally into three categories:

- a. Lump sum payments where the claimant returns to work,
- Protracted claims where the decision is made and then provides for periodic monthly payments during the continued disability and, lastly
- c. Death claims where again the decision is made making an award up to the time of the decision and then providing for a monthly payment to the dependents.

Our awards are paid pursuant to Section 36 of Article 101 of the Maryland Annotated Code, which is the Award Section of the Maryland Workmen's Compensation statute.

III. Rules and Regulations

The Board, pursuant to the provisions of its statute, adopted Rules and Regulations, which were approved and duly filed with the Secretary of State, Clerk of the Court of Appeals, etc. The Board in these Rules and Regulations set up certain guidelines to determine serious financial hardship. Unless serious financial hardship is shown, no award can be made.

IV. Public Awareness

The number of applications received in the last six months of the fiscal year increased substantially over the number received in the first six months of the fiscal year. In as much as there has been and there continues to be an increase in public awareness of the legislation and of the Board, we anticipate similar substantial increases in the next fiscal year. Notwithstanding the increase in applications submitted to us, we note that only a small percentage of the victims of what appeared to be eligible crimes committed in Maryland are filing applications. For that reason, we will continue to discharge our responsibilities to advise the public concerning the benefits available under the statute. We consider this duty of advising and informing our citizenry to be an extremely important and continuing one.

The Board has been the subject of numerous newspaper releases and stories. We have also used and are indebted to various radio stations for allowing us public service time for spot announcements. Radio and television stations in Baltimore and Washington, D. C., Hagerstown and Salisbury have also conducted programs explaining the Criminal Injuries Compensation Board.

We have also contacted all the Social Service Departments, Police Departments, Workmen's Compensation Commission, various state departments, county departments, Legal Aid Societies and all hospital and similar types of organizations informing them of our Board. The Board also prepared a brochure explaining, in laymans' terms, the statute. The Board has now distributed over 75,000 of these brochures in all parts of the State.

The Board recognizes that the public is not as yet well informed and we shall continue our efforts within our own limitations to make use of the news media, radio and television to accomplish this.

V. Statistical Explanations

The number of claims that were accepted and investigated were 240 and in addition to that, there were what shall be termed as inquiries, 1,000. These inquiries were not processed by opening a file and starting an investigation because the Secretary to the Board, who is also the Executive Director, did not find the claimants to be eligible under our statute. We have had for example, a number of inquiries from citizens of this state who were injured in crimes that took place in other states and in particular, the District of Columbia. We have also had inquiries from various creditors and distant relatives of the deceased victims who do not meet the eligibility requirements of the statute. Crimes involving automobiles are also excluded by the statute unless intentionally committed and are likewise rejected by the Secretary. Sometimes it also becomes necessary for a preliminary investigation to be conducted to determine if the claim or inquiry was one that should be accepted for investigation. This is done to save the time of the investigative staff and save the costs of processing the claim. Of the 240 claims accepted and filed, there were 105 decisions rendered, of which 42 awards were made and 63 were disallowed. The reasons for disallowance of the claims are as follows:

No Crime	1
Did not meet minimum requirement	9
No loss of support	5
No serious financial hardship	23
Failure to furnish information	1
Provocation	2
No police report filed.	5
Withdrawn	10
Ineligible	3
Member of a family	2
Motor vehicle	2

During this time there were 10 emergency awards made. There were 180 personal injury claims and 60 death claims. Attorney's filed the claims on behalf of 90% of the claimants. The type of crime is illustrated by the following:

Assault	73
Stabbed	17
Murders	60
Shot	48

Mugged	18
Manslaughter by automobile	4
Burglary	1
Assisting in arrest	1
Rape	. 5
Miscellaneous	13

Of the 105 decisions which were rendered by the single Board Member, there were 15 Appeals to the full Board. Full Board Appeals are held in the Board's offices in Baltimore, Maryland. However, the Board Members and the Executive Director, who also functions as a hearing officer, conduct hearings throughout the state. The full Board has affirmed 10 cases on Appeal and 3 were reversed and 2 were allowed to be reopened for further investigation and/or further proof to be submitted.

The lump sum awards averaged \$1,431. In the death claims, without taking into consideration the amount set forth in the decision but only for the periodic monthly payments, payments averaged \$1,944 per year per claim. In a protracted claim the average is \$2,520 per year per claim. At the present time, 9 death claims and 2 permanent total claims are being paid monthly.

The Board wishes to call attention that there is no duplication and/or overlapping of monies where an award is made. As an illustration, let us first examine the lump sum award where the victim returns to work after the crime. He is awarded only the amount of medical expenses which he will be obligated to pay out of his pocket. Any and all such sums which he will receive from public or private sources, such as Blue Cross, Blue Shield, private insurance policies, Workmen's Compensation or disability benefits, all are subtracted from the award. For his loss of earnings and disability, we pay him pursuant to the temporary total disability schedules set up under Workmen's Compensation Law of Maryland. In the protracted claims, the same result is obtained, by the use of the permanent partial and permanent total disability schedules of the Workmen's Compensation Law.

In the death claims, the dependents are awarded a lump sum to reflect the unpaid medical and funeral expenses and the loss of support to date. All pensions, social security, Workmen's Compensation or other types of benefits are totalled and deducted from the gross monthly award set forth under the Workmen's Compensation Law and a net monthly award is determined. Accordingly, the dependents are awarded this monthly income over a protracted period until the award is depleted or until their financial hardship status is changed.

Since periodic payments are made monthly in protracted and death cases, periodic checks are made to determine if the payments should continue. In protracted cases, if the doctor advises that the victim is able to return to work, payments are stopped.

In death and permanent total cases, if there is a change in dependency, remarriage, emancipation or any other circumstance or contingency that would alleviate claimant's financial hardship, payments are then stopped.

VI. Administrative Procedures

The Board has investigated and rendered a number of decisions in less than 30 days. However, the average is 60 days. There are, of course, many reasons that delay the Board's decisions. The State's Attorney may request the Board to conduct no investigation until he advises that the Board can proceed. This generally means awaiting the disposition of the criminal matter. In the protracted claims, there may be delays due to the fact that it is impossible to obtain complete medical information.

It is difficult in death claims to complete the investigation where there are Social Security benefits undetermined, as well as Workmen's Compensation claims undecided.

In other instances it is impossible to obtain the information from Blue Cross or Blue Shield because enough time has not elapsed from the time the claimant was discharged from the hospital, or he is still under the doctor's care and a final bill with Blue Cross or Blue Shield benefits is not available.

There is also delay experienced with respect to verifying the financial resources of the claimant.

It has been found that even where there are serious questions to be determined, and the claimant cooperates, a speedy decision can be rendered.

However, in claims where there is provocation which requires intensive investigation, there is delay experienced due to attempting to locate and interview reticent witnesses.

VII. Emergency Awards

Emergency awards are made in cases pending a final decision where undue hardship is evidenced.

The Board has continued to treat each claimant not as an adversary, but rather to determine the full and true facts concerning each claim. We are dedicated to seeing that those people who are entitled to an award shall receive the same, but we are equally dedicated and vigorous in our investigation to deny an award to anyone who is not entitled to the same.

The Board has continued to advise the claimant and/or his attorney wherever there are questions that must be resolved and a full disclosure is made of the facts developed.

The claimant is entitled to representation by an attorney from the time the claim is filed.

VIII. Projections

The projected number of claims can be better estimated now that we have completed our first full year of operation.

It is believed that there will be at least 500 claims filed which will require investigations. This does not include the inquiries which we expect we will be able to handle in the same way as hereinabove outlined.

Not only is the public better informed and becoming more so continually, but the distribution of brochures and the publicity that has been given to the Board certainly are factors that should be considered.

Another factor is that the crime rate as reported by the Federal Bureau of Investigation, and particularly those crimes in which personal injuries are suffered, is on the rise again this year.

It should be noted that during the first years activities there were 240 claims received and investigated and the growth and increase in the Board's work and activity is reflected in the number of claims in this report. To reflect the increase in the claims for the month of July, 1970, 28 claims were received, and in August, 1970 there were 32.

Based upon this information, it is reasonable to expect that there will be at least 40 claims filed in the present fiscal year.

IX. Payment of Awards

Our awards in the past fiscal year totalled \$328,000. Of that total: \$66,723 was awarded in lump sum payments and \$261,277 was awarded in protracted payments none of which vested to the claimant and in the event of a change in circumstances regarding the claimant, such as death, the unpaid portion will terminate and revert to the State. All protracted payments are paid monthly by the Board's staff. Currently, approximately \$2,500 is being paid monthly in protracted payments or \$30,000 annually. It is anticipated that in the current fiscal year these protracted payments will grow.

Attached hereto, Appendix A, is the summary of the decisions which have been made by this Board during the past year.

X. International Seminar

The Board hosted the Second International Conference for the Compensation of the Innocent Victims of Violent Crimes. The Conference was held on May 27, 28 and 29 in Baltimore, Maryland. A number of distinguished national and international guests attended. Governor Marvin Mandel delivered the keynote speech.

As a result of the Conference, an international association of Criminal Injuries Compensation Boards was formed. Joseph Pickus, Chairman of the Maryland Board, was elected Treasurer of the new international organization.

XI. Policy, Intent and Philosophy

The reasons for compensating innocent victims of violent crime are expressed in the declaration of policy and the legislative intent in the

statute. However, there are other compelling reasons to reimburse innocent victims of violent crimes. The worry that encompasses a victim while recovering from the injuries and without funds to pay his medical expenses, or to maintain his family is undoubtedly more harmful to his recovery than the pain that he suffers.

The traumatic impact upon the family of the victim who dies facing the future with uncertainty of not only how to pay the medical and/or funeral bill, but where they will turn to replace the support lost through death.

The State of Maryland, being one of the leaders in this field, reflects the awakening of the social consciousness of the people of the western world to the assisting of innocent victims of crime in somewhat the same manner that State mandated programs provide for illness, disability, old age and unemployment.

The victims are deserving of aid simply because they need the same. F.B.I. Director, J. Edgar Hoover made the need for aid to the victim known when he said: "We are faced today with one of the most disturbing trends that I have witnessed in my many years of law enforcement — an overzealous pity for the criminal and an equivalent disregard for his victim." (Congressional Record June 24, 1965.)

During the past year the Board has learned from police agencies that in many instances the victim is not interested in prosecution of his assailant because he has many more immediate and pressing problems. In addition, the victim without the benefits of this statute is left with nothing except his bills, the worry of his family, as well as the disruption of his household. However, since the innocent victim of crime in the State of Maryland may file a claim, it is hoped, and there has been some experience to indicate, that he would be more willing to cooperate with the law enforcement agencies knowing someone cares about him. In this respect the victim who was an unwilling and uncooperative witness now becomes a willing and cooperative witness.

It is the feeling of the Board that the assistance afforded the innocent victim of a crime is helping and aiding in the administration of justice.

XII. Inter-Agency Cooperation

Finally, the Board acknowledgs the cooperation of the State's Attorneys throughout the State in aiding in this program.

We also acknowledge the cooperation of each and every law enforcement agency and particularly to the State Police who have been of great assistance and willingly have made the information available.

The Board expresses its thanks to the staff which has been trained continually throughout the year to facilitate the handling of the paper work and the investigators in expediting the investigations.

XIII. Analysis and future needs

As noted in prior paragraphs, it is anticipated that the work load of this agency will greatly increase every year for the next few succeeding years. Consequently, budget needs will increase yearly. To substantiate this position, we need only refer to continual public awareness, crime statistics. and the experience of other States such as New York, Hawaii, et cetera. Moreover, the need for additional staff as well as at least one or more full time Commissioners will arise in the near future according to projections at this time. Administrative and procedural cases, we are still endeavoring to implement the most legal and best possible systems and manners of operation. To that extent, we have requested the Attorney General's office to act as adversary in all cases on which a full Board review is requested by a claimant in order to remove the possibility of cross examination by the Commissioners and in order to present to the public the fairest possible atmosphere at these hearings. Because of the new legalistic concept of our statute as well as the newness of our physical operation, unique and complex legal problems are raised at almost every full Board hearing. For these reasons, we must constantly in our service to the public and State, be on guard with respect to the legal and constitutional needs of all parties. As a result of our experiences, we also intend to submit various amendments to the law through the Secretary of our Department which we believe will further implement the philosophy and spirit of the Criminal Injuries Compensation Act.

XIV. Acknowledgements

The Board lost the excellent services of Commissioner George Beall on June 1, 1970 when he was named United States Attorney for Maryland. He was one of the original Board members and the Board is greatly indebted to him for his substantial contribution to the over-all effectiveness of the Board.

It would be remiss for the Board to fail to acknowledge the work which the Executive Director and Secretary to the Board has carried on and acknowledge the increase in the duties of his offices, all of which have been handled exceedingly well.

All of which is respectfully submitted.

Dated: January 15, 1971 Baltimore, Maryland JOSEPH PICKUS

Chairman

GEORGE H. C. ARROWSMITH

Commissioner

MARTIN I. MOYLAN Executive Director and Secretary to the Board

DENNIS C. McCOY Commissioner

SUMMARY OF CLAIMS July 1, 1969 to July 1, 1970

1-P-69 *

Claimant, male, 53, was stabbed in the chest while attempting to break up a fight in a bar in Baltimore. Assailant was tried and found guilty and given six years. Serious financial hardship determined. Claimant awarded \$141.70 for unreimbursed medical expenses and \$1,590.75 for unreimbursed lost time, 21 weeks at \$75.75 per week, for a total award of \$1,732.45.

3-P-69

Claimant, 61, had lye thrown in his face while he was operating his grocery store in Baltimore. Claimant earns approximately \$600 per month and has assets of \$12,000. Claimant lost one week from work and has \$150.00 in unreimbursed medical expenses. Section 12(f) of the statute provides that if a claimant will not suffer serious financial hardship, as a result of his loss of earnings and out-of-pocket medical expenses, an award shall be denied. In view of the claimant's assets and income, serious financial hardship was not indicated, and the claim is disallowed.

5-D-69 *

Claimant, 30, is the widow of a man who was shot to death in December 1968 in Prince George's County. Assailant was tried, found guilty and given 30 years. Claimant had approximately \$32,000 in assets when the Board originally considered the claim. The claim was denied because claimant did not show that she had a serious financial hardship. Claimant appealed to the full Board. Claimant was able to establish that she was unemployed and had three children of tender age living at home with her. She also established to the Board's satisfaction that she had a serious kidney disease that necessitated extensive hospitalization and renal treatments. A housekeeper was required not only when she was hospitalized but at other times also. She had also expended the major portion of her assets on her medical bills and child care payments.

Decision on review by full Board reversed. The Board found that there had been a change in the claimant's financial condition since the original hearing and that the claimant had, as of January 1, 1970, a serious financial hardship as required by section 12(f) of Article 26A of the Maryland Annotated Code. Award: \$838.40 for four monthly awards at \$209.60 per month calculated to April 30, 1970 and beginning May 30, 1970, \$209.60 per month. However, in no event may the total of all payments to the claimant exceed the sum of \$27,500. The Board reserves the right to reopen and reinvestigate this claim and if warranted from the facts then existing to issue a new order based upon a change in the claimant's financial condition.

6-D-69

Claimant, 62, is the widow of the former Sheriff of Wicomico County, who was shot and killed while trying to prevent a prisoner from escaping

from jail. The Board found that the claimant's husband was the innocent victim of a crime. It does not find, however, in view of the claimant's assets of over \$50,000 that the claimant was presently suffering a serious financial hardship as required by Section 12(f) of Artcile 26A of the Maryland Annotated Code. The claim was, therefore, denied. The Board reserves the right to reopen and reinvestigate this claim and if warranted from the facts then existing, to issue a new order based upon a change in the claimant's financial condition.

7-D-69 *

Claimant, 54, is the widow of a victim who was killed in the process of an armed robbery at his place of business in Baltimore. The only income the victim's widow has is Social Security of \$107.40 per month as contrasted with living expenses of \$330 per month. Serious financial hardship was determined by the Board. Award: \$284 for unreimbursed funeral expenses, plus \$2,516.80 for 13 monthly awards @\$193.60 per month, calculated to December 31, 1969, making a total of \$2,800.80 and beginning January 1, 1970, \$193.60 per month. However, in no event may the total of all payments made to claimant exceed the sum of \$27,500. The Board reserves the right to reopen and reinvestigate this claim and if warranted from the facts then existing to issue a new order based upon a change in the claimant's financial condition.

8-P-69 *

Claimant, male, 60, and his wife (#9-P-69), were assaulted by two assailants during a hold-up of their grocery store in Baltimore. Assailants were apprenhended. Claimant sustained lacerations to his scalp and nose and multiple facial contusions and a broken rib with displacement. The bulk of claimant's medical expenses were reimbursed by insurance with the exception of \$125. We find claimant to be the innocent victim of a crime and serious financial hardship is determined. Award: \$125 for unreimbursed expenses plus \$919.80 for lost time, totalling \$1,044.80. (Cross index #9-6-69)

9-P-69 *

Claimant, female, age 53, and her husband were pistol whipped by two assailants during the hold-up of their grocery store in Baltimore, Maryland. Assailants were apprehended. Claimant sustained numerous lacerations to her face and head in addition to a fractured rib. Claimant's medical bills were reimbursed by insurance. Claimant and her husband did not reopen their business. We find claimant to be the innocent victim of a crime and serious financial hardship is determined. Award: \$1,984.00 for lost time.

15-P-69 *

Claimant, female, 42, was assaulted on a public street in Baltimore by two unknown assailants who threw her to the ground and stole her purse. Claimant suffered a fracture of the left orbital bone. Claimant was paid her full salary by employer. No loss of wages. Serious financial hardship is determined. Award: \$219.50 for unreimbursed medical expenses.

20-P-69 *

Claimant, male, 18, was struck in the face with a stick by an assailant in Baltimore. Claimant lost his left eye as a result of the assault. As to the unreimbursed medical bills and lost earnings, claimant lost 39 weeks from work for a total of \$2,598.50. He returned to work at the same rate of pay. Serious financial hardship determined. Claimant is awarded \$1,246.76 for unreimbursed medical expenses and \$1,351.74 for loss of earnings.

22-P-69

Claimant, male, 63, was injured by two unknown assailants on December 5, 1968 on a public street in Baltimore, Maryland. There was, however, no showing in the records before us that the claimant has suffered a serious financial hardship as required by Section 12(f) of the statute. The major portion of the claimant's medical bills were reimbursed to him by insurance. The claimant's remaining medical bills and out-of-pocket losses were minimal. The claim was denied. Claimant appealed to the full Board.

Claimant's counsel at the full Board hearing contended that reimbursed medical bills should be paid by the Board to claimant because not to do so would be to penalize the prudent. Section 12(d) of the statute states in part that any award made by the Board shall be reduced by the amount of any payments received as a result of the injury from any public or private source, including Workmen's Compensation. Decision was confirmed by the full Board.

23-D-69

Claimant, 43, was a former paramour of a man who was found dead in a public park in Baltimore. He had been shot approximately seven times in various parts of his body. Our investigation revealed that the deceased and the claimant were not living together at the time of the deceased's death. The deceased had been, for approximately seven years, a dealer in narcotics. Three brown packages containing marijuana were found on his body and a subsequent search of his home revealed a large amount of marijuana. The Board concluded that the deceased was not "an innocent victim of a crime". Assuming without deciding that the deceased was an innocent victim of a crime, no dependency was established by the claimant. The claim was denied.

25-P-69

Claimant, male, age 57, owned and operated a clothing store in Baltimore, Maryland. On January 6, 1969, he was bound, gagged and robbed by two unknown assailants in his store. Several days after the robbery he suffered a ruptured peptic ulcer. The bulk of his hospital bills were paid by insurance and he received \$50 a week in disability benefits. The Board found that the claimant was in fact a victim of a criminal act but that there was no causal connection between the injury and the criminal act. It further found that the claimant did not have a serious financial hardship as required by Section 12(f) of the statute and denied the claim.

An Appeal to the full Board was taken from the denial by the claimant. A hearing was held by the full Board and the claimant appeared represented by counsel. The claimant's counsel submitted a medical report which indicated that the shock of the robbery precipitated the claimant's ulcer syndrome.

The full Board found, "Assuming without deciding that there was a causal connection between the injury and the crime, we find that the claimant does not have a serious financial hardship as required by Section 12(f) of the statute and accordingly, the decision is affirmed."

29-D-69 *

Claimant is a widow of a man who was shot and killed by assailant who entered his store to rob him in Baltimore. Claimant and her deceased husband were concentration camp victims during World War II. After the war they established a small neighborhood grocery store with the assistance of their relatives. Shortly before the husband's death, their store was burned and looted during a riot. Assailant has been apprehended and found guilty. Serious financial hardship is determined. Award: \$1,081 for unreimbursed funeral expenses, plus \$155.80 for 13 monthly awards to December 31, 1969, making a total of \$3,106.40 and beginning January 1, 1970, \$155.80 per month. However, in no event may the total of all payments made to claimant exceed the sum of \$27,500.

26-P-69

Claimant, 43, was involved in a bar room gun fight in Princess Anne County. He and his alleged assailant both discharged their respective firearms into each other. Claimant and the alleged assailant were both tried and found guilty of assault on December 18, 1969. Claimant was found to be responsible for his own injury and under Section 12(3) was not an innocent victim of a crime. Claim was, therefore, denied.

30-P-69

Claimant, male, 51 alleges that he was assaulted and stabbed in the hand and on the forehead on a public street in Baltimore City. Investigation conducted by the Board fails to disclose any report of a crime to the police. Section 12(a)(3) of the statute provides that no award shall be made unless the Board finds that a crime was committed and police records show that such crime was reported to the proper authorities. Accordingly, since there is no police report, the claim was disallowed.

32-P-69 *

Claimant, male 31 was shot by assailant. Assailant was found guilty of assaulting claimant. Claimant is the innocent victim of a crime. Serious financial hardship was determined, as to the unreimbursed medicals and lost time. Claimant lost 14 weeks from work. However, he returned to work with no diminution in earnings. Award: \$195 for unreimbursed medicals plus \$1,060.50 for 14 weeks at \$75.75 per week, making a total of \$1,255.50.

33-D-69 *

Claimant's wife was the innocent victim of a presently unsolved murder. His wife was abducted off a public street in Baltimore. Her body was later found in a park. It was confirmed by the state medical examiners that she had been beaten to death and sexually molested. The claimant is employed. There was no claim for loss of support. The out-of-pocket losses were confined to a funeral bill and the cost of a cemetery memorial. Serious financial hardship was determined. An award of \$1,231.50 was granted claimant for his unreimbursed expenses.

34-P-69

Claimant, female, 35, alleges that she tried to stop alleged assailant, who was engaged in bar room fight in Sharpstown, Wicomico County, from pushing her husband into a stove whereupon assailant pushed her to the floor causing her to break her leg. Investigation conducted by the Board fails to disclose any report of a crime to the police. Section 12(a)(3) of the statute provides that no award shall be made unless the Board finds that a crime was committed and police records show that such crime was promptly reported to the proper authorities. Since there was no police record, the claim was disallowed.

37-P-69 *

Claimant, male, 30, was struck by an unknown assailant with a baseball bat while sitting in a car at a light in Baltimore City. He sustained injuries including fracture of the left frontal bone and facial scarring. The bulk of his medical bills were taken care of by insurance with the exception of \$109. The Board found that the claimant was the innocent victim of a crime and serious financial hardship was indicated. Award: \$109 for unreimbursed medical expenses and \$600 for disfigurement, 24 weeks at \$25 per week, making a total award of \$709.00.

38-P-69

Claimant, male, was struck by an unknown assailant with a baseball bat on a street in Baltimore City. He suffered a fracture to his left arm and right knee. He lost no time from work, however, and his medical expenses were taken care of by insurance with the exception of \$30 for prescriptions. In view of the claimant's assets and income, serious financial hardship was not indicated and the claim was disallowed.

41-D-69

Claim was filed by an alleged paramour of a man who was shot and killed by an unknown assailant on a public street in Baltimore. Claimant also alleged that one of her children was a illegitimate child of the deceased'. The deceased also left a wife and several children who were not parties to the proceedings. The Board found that there was no showing that the claimant or her child were dependent for their principal support upon the deceased, as required by Section 5(a)(3) of Article 26A of the Maryland Annotated Code.

Claimant took appeal to the full Board. The claimant alleged that the deceased cohabitated with her and furnished weekly cash sums to her. No checks, vouchers, letters or other receipts pertaining to support were produced by the claimant, who had no knowledge as to any unreimbursed medical, funeral expenses, insurance or estate of the victim. No Income Tax records of the victim or the claimant were produced nor was any evidence offered as to the victims average weekly wage.

The Board found: "We are unable to determine from the record before us that the victim was the father of the infant claimant or that he furnished any support towards the claimants. Assuming without deciding that the claimants had been able to furnish such proof, we would still be unable to make an award in this case as the claimants have not demonstrated that they will suffer a serious financial hardship as required by Section 12(f) of the statute."

The Commissioner's decision is, therefore, confirmed by the full Board.

42-D-69

Claim filed on behalf of the two infant claimants by their mother. Claimant's mother was the first wife of their father, the victim. Claimants' father was shot and killed by his second wife, the infants' step-mother. Section 5(6)(b) and 2(d)(1) of Article 26A of the Maryland Annotated Code together exclude members of the family of a person who is criminally responsible for a crime from becoming eligible to receive an award under our statute. Since the infant claimants are within the third degree of affinity to the assailant, we find the infants not to be eligible to receive an award growing out of this claim. The claim is, therefore, disallowed.

48-P-69

Claim filed on behalf of minor claimant by her father, who was assaulted and raped in a high school in Baltimore County. Medicals totalled \$360.30 of which \$164.65 was reimbursed through Major Medical Policy, leaving a balance of unreimbursed expenses at \$195.65. Claim was denied by the Board because it felt claimant would not suffer a serious financial hardship, in view of his assets, if he had to pay the unreimbursed medicals.

49-P-69

Claimant, male, 28, alleged that he was beat and robbed by unknown assailants on a public street in Baltimore. Since the filing of this claim, the claimant elected to proceed with his remedy under Workmen's Compensation Law. Therefore, the Board considered the claim abandoned and it was closed without an award.

50-P-69

Claimant, male, 45, was shot by unknown assailant during a holdup of a drycleaners in Baltimore. He was forced to lie on the floor by the assailant who then shot him three times in the back, neck and leg. On the basis of the information provided by the claimant, as well as by the independent investigation of this Commission, the Board found that, while the claimant was the victim of a criminal act, that all medical bills were reimbursed, that the claimant was paid \$70 per week during the period of his temporary total disability and that he later returned to work in his previous position at the same rate of pay. The Board also found that financial hardship would not exist if an award was not made as required by Section 12(f) of the statute. Accordingly, the claim was denied.

51-D-69

Claimant is the father of a 30 year old woman who was found unconscious in her home in Baltimore and who later died shortly thereafter of cerebroncranial injuries. Victim was not employed and was receiving public assistance at the time of her death. The Board found that the father was not an eligible claimant, under Section 5(a)(3) of the statute, as he was not receiving his principal support from the victim. The claim was, therefore, disallowed.

52-P-69

Claimant, male, 40, sustained personal injuries at the hand of an unknown assailant. He had been employed by Bethlehem Steel as a rigger and earned approximately \$612 per month. He received reimbursement from Blue Cross-Blue Shield for his medical expenses and specified no out-of-pocket expenses. He received disability benefits of \$66 per week and has not particularized any loss of earnings.

From the documents submitted in support of this claim, it appeared that the claimant had neither sustained the minimum loss as required by Section 7 nor suffered serious financial hardship as required by Section 12(f) as a consequence of the incident. Accordingly, his claim was denied.

53-P-69

Claimant, male, 37, was involved in a heated argument in a barber shop in Montgomery County. Upon leaving the shop, claimant was shot twice by assailant. On September 19, 1969 the Board member wrote requesting the claimant submit a completed Personal Injuries Claim Form and an Affidavit of Financial Resources with which he would particularize his earnings, losses and out of pocket losses. The Board reiterated this request on February 20, 1970, with the admonition that the claim would be closed unless they received an appropriate response within thirty days. No response was received to either of the requests. Accordingly, the claim was denied.

54-P-69 *

Claim filed by mother with whom the victim, male, 17, resides. Victim was stabbed in the chest while getting onto a bus in Baltimore City. The Board found the infant to be innocent victim of a crime and serious financial hardship was also determined. The Board further found that the infant sustained a permanent partial disability amounting to a 7% industrial loss of the use of his body as a result of the injuries to his chest. Award: \$166 for unreimbursed medical expenses and \$875 for disability, making a total of \$1.041.00.

57-P-69 *

Claimant, female, age 69, assaulted on her way to church by a purse snatcher and her hip was broken. She is single, retired and has Social Security of \$104.10 as contrasted with living expenses of \$135 per month. The Board found that claimant was the innocent victim of crime. Serious financial hardship was also determined. Claimant was awarded the sum of \$1,136.82.

58-P-69

Claimant, male, 37, was robbed and assaulted on a public street in Baltimore. Assailants were apprehended at the scene. Claimant lost eight days from work and received \$77.15 from his employer's insurance carrier. Claimant also had \$33 in unreimbursed medicals. The Board found that claimant had not made out a minimum claim as required by Section 7 of the statute, nor had he met the serious financial hardship requirements set forth in Section 12(f) of the statute. In light of these findings, no award was made in this case.

60-P-69

Claimant, male, 32, was assaulted by unknown assailant while walking on a public street in Baltimore. He lost part of his ear as a result and said assault. Claimant's hospital and medical bills were paid by his medical insurance carrier. He was also paid a disability payment of \$66 a week during the periods of his absence from work. He returned to his previous employment with no reduction in salary. Claimant's disability payments are deductible from any award made by this Board as required by Section 12(d) of the statute. The Board found that serious financial hardship was not indicated. Therefore, the claim was disallowed.

A full Board hearing was requested and was set for November 12, 1969 and the appropriate notice was sent to claimant's attorney. On the date of the hearing, claimant's attorney called and requested a postponement, which was granted. A hearing was reset for January 14, 1970. On the date of the hearing there was no appearance by the claimant.

The claim was herewith dismissed and the Board member's decision was, therefore, confirmed by the full Board.

61-P-69

Claimant, male ,35, was shot while seated at the bar in a cafe in Baltimore. He suffered a gunshot wound of the left ankle. All medical charges were covered by claimant's employer's insurance program. Although claimant lost three continuous weeks earnings, he did receive disability benefits of \$76 per week. The Board decided that serious financial hardship was not indicated and this claim was disallowed.

62-P-69

Claimant, male, 46, was criminally assaulted in Baltimore and lost his eye as a result thereof. The Board found that the claimant was paid weekly benefits in the amount of \$66 through his union or employer and a lump sum payment of \$1,000 through his union or employer. The hospital bill, in the amount of \$411.25, except for \$40 was paid by the Aetna Life and Casualty Company incident to a policy issued to the union or the employer. All other medical expenses with the exception of \$150 for an artificial eye which the claimant paid from his own funds, was paid by an insurance company. The claimant has returned to his previous employment at no reduction in salary. Notwithstanding the fact that the Board found the claimant was a victim of a criminal act, the Board did not find substantial financial hardship and no award was made at the time.

63-D-69 *

Claimant is widow of man stabbed and killed by four unknown boys on a public street in Baltimore. Serious financial hardship was determined. Award: \$1,145,16 for unreimbursed medical expenses plus \$2,364 for fifteen monthly awards calculated to January 31, 1970 making a total of \$3,509.16 and beginning February 1, 1970, \$157.60 per month. Award apportioned 50% to widow and 25% to each child. However, in no event may the total payments made to claimants exceed the sum of \$27,500. Award payable to claimant individually, and as parent and natural guardian of her children. The Board reserves the right to reopen and reinvestigate this claim and if warranted from the facts then existing, to issue a new order based upon a change in the claimants' financial condition.

64-D-69 *

Claimant is the mother of a man who was shot and killed on his front steps in Baltimore on May 30, 1969. Claimant was receiving an award of \$301 per month from the death of another son (Claim #65-D-69). In view of the fact that claimant is receiving \$301 per month on Claim #65-D-69, we shall not commence to make monthly award payments on this claim until the benefits \$4,500, are depleted on Claim #65-D-69. The Board determined that the claimant meets the eligibility requirements pursuant to the statute and a hardship situation exists, and that the claimant was partially dependent on the victim. Award: Total unreimbursed medical expenses: \$94.50. However, in no event may the total payments on this claim to the claimant exceed the sum of \$9,000. The Board reserves the right to reopen and reinvestigate this claim and if warranted from the facts then existing, to issue a new order based upon a change in the claimant's financial condition.

65-D-69 *

Claimant is the mother of a 22 year old man who was shot in the head and killed on a public street in Baltimore by an unknown assailant. The Board determined that claimant met all the eligibility requirements pursuant to Article 26A, Section 5(a). It is also found that claimant was partially dependent upon the victim. However, in accordance with Article 26A, Section 12(e), the total award of \$9,000 was reduced 50% due to culpability on the part of the decedent to \$4,500.

Claimant took appeal to full Board. After hearing the testimony of claimant and claimant's witness and reviewing all the pertinent records in this case, the Board found no merit in claimant's assertion that there was no culpability on the part of the deceased. Decision affirmed.

66-P-69

Claimant, male, 26, was detected by the husband of a neighbor in the process of having an affair with the neighbor's wife in Silver Spring, Montgomery County. A fight ensued and the claimant suffered a broken jaw and a fractured nose. The incident was never reported to the police authorities.

The Board's investigation indicated that claimant was not a "victim of a crime", but was in fact engaged in a criminal activity which directly resulted in the injuries complained of. Moreover, the Board found that there was no timely report made of the incident complained of as required by Section 12 of the statute. Claim dismissed.

67-P-69 *

Claimant, male, 19, was assaulted by a gang of boys on a public street in Baltimore on January 24, 1969. An award was previously denied on January 26, 1970 by this Board because it appeared that no prompt report of the incident had been given to the police authorities as required by the statute. Since that time, however, the Board was furnished with the records of the Baltimore City Police Department who had misspelled claimant's name. Aside from this misspelling, the police records adequately describe the claimant and serve as substantiation of the incident. We retracted the prior opinion and found the claimant was indeed the innocent victim of a crime. Accordingly, we reimbursed him for his out-of-pocket losses of \$343.25 by paying the outstanding medical bills.

68-P-69

Claimant, male, age 66, made claim for injuries allegedly sustained when the claimant's automobile was unintentionally struck from the rear by another motor vehicle in Baltimore. The statute specifically states in Section 2(c) that "no act involving the operation of a motor vehicle which results in injury shall constitute a crime for the purpose of this article." The Board found claimant not eligible for an award and his claim was, therefore, denied.

69-D-69 *

Claimant is the widow of a man who was robbed and killed by an unknown assailant on a public street in Baltimore. Serious financial hardship was determined. Award: \$1,1681.35 for unreimbursed medical and funeral expenses. It is ordered that the claimant's monthly award be set at \$184 per month retroactively to the date of the decedent's death. However, in no event may the total of all payments to claimant exceed the sum of \$27,500. The Board reserves the right to reopen and reinvestigate this claim and if warranted from the facts then existing, to issue a new order based upon a change in the claimant's financial condition.

70-P-69

Claimant, female, 50, was a passenger in an automobile which was unintentionally struck from the rear by another motor vehicle. The Board found claimant not to be eligible for an award from this Board because Section 2(c) of the statute specifically states that "no act involving the operation of a motor vehicle which results in injury shall constitute a crime for the purpose of this article". Claim dismissed.

73-D-69

Claimant is the widow of a man who was shot to death by a youth in Prince George's County. The Grand Jury did not indict the youth and closed the case exceptionally. At the original hearing it was determined that a crime was not committed and/or that the deceased was not an innocent victim of crime, and the claim was denied.

At the full Board hearing the claimant's attorney appeared and presented arguments on behalf of the claimant. The youth also appeared and was represented with counsel.

The claimant's attorney alleges that the youth and his father were not in any danger or peril for their lives and that the amount of force used by the youth was unreasonable under the circumstances. He further maintains that if the Board finds that the victim did in fact provoke the attack, that the Board should make a partial award since the deceased never anticipated being killed when he went to the home of the youth's father and attacked the father.

The youth's testimony basically was that on the date of the occurrence, three men, one of which was the deceased, went to the father's home and physically attacked his father. When the youth tried to intervene, he was pushed aside and told to stay out of the fight or he would also be killed. He, thereupon, went and got a shotgun and attempted to stop the fight. One of the men attempted to attack him and the youth shot him in the leg. The deceased then came at him, as if to attack him, and the youth fatally shot the deceased.

The full Board concluded after due consideration that the youth repelled force with force and that he acted in a reasonable and justifiable manner under the circumstances. It was of the opinion that no crime was committed by the youth. It further concluded that the deceased was not an innocent victim of crime and the conduct of the deceased completely precluded their making a reduced award. The decision was, therefore, confirmed by the full Board.

76-D-69

The claimants are the wife and son, 14, of a victim who was robbed and stabbed to death in his tailor shop in Baltimore.

It was determined by the Board that the deceased was the innocent victim of a crime. It was also found at the time, that the claimants were

not suffering serious financial hardship as required by Section 12(f) of the statute. Claim was denied and claimants appealed to the full Board.

The claimants at the full Board hearing stipulated that they did not have a serious financial hardship as required by Section 12(f) of the statute. They did, however, take issue with Section 12(f) of the statute and they maintain that the legislative intent of the statute is to compensate claimants, all other statutory criteria being met, even if they do not suffer a serious financial hardship.

The full Board did not agree with claimants contention and did not feel that Section 12(f) was irrelevant. The full Board stated, "assuming without deciding that we would disregard 12(f) of the statute, we believe that such an act on the part of the Board would be an ultra vires act. In our opinion the claimants must show a serious financial hardship in order to be eligible for an award under the statute. The claimants, having failed to meet this necessary statutory requirement of Section 12(f) of Article 26A, the decision was, therefore, confirmed by the full Board."

77-P-69

Claimant, male, 21 was shot in the neck by a hitch-hiker who was given a ride by the claimant and his friend in Prince George's County. According to the police investigation, the assault was provoked by claimant and his friend through their threats that they intended to rob the hitch-hiker. The claim was denied because of claimant's participation in illegal activities which provoked the incident.

78-P-69 *

Claimant, male, 26, was shot with a 30-30 rifle by assailant in a passing car on U.S. Route 50 in Wicomico County. Assailant was apprehended, tried and found guilty. Claimant found to be an innocent victim of crime. Serious financial hardship was determined. Claimant was awarded \$265 for unreimbursed medical expenses and \$60 per week for 6½ weeks, totalling \$390 for loss of earnings.

79-P-69 *

Claimant, male, 42, was robbed and shot in the pelvis on a public street in Baltimore by unknown assailants. Claimant is the innocent victim of a crime and has satisfied all of the statutory prerequisites to an award. Claimant received \$70 per week from insurance for his first six months of disability. Since December 1, 1969 he has been receiving \$311 from Social Security. Award: \$2,904.49 for unreimbursed medical expenses plus \$1,694 for lost time, making a total of \$4,598.49, and beginning June 1, 1970, \$54 per month. Claimant's unreimbursed medical expenses are of a continuing nature and they will be paid periodically by the Board when submitted and verified. However, in no event shall the total of all payments to the claimant exceed the sum of \$45,000. The Board reserves the right to reopen and reinvestigate this claim and, if warranted from the facts then existing, to issue a new order based upon a change in the claimant's physical or financial condition.

80-P-69

Claimant, male, 29, alleged that he sustained personal injury in an automobile accident while chasing a suspected child molestor in Baltimore. The police report of the accident showed no injury to the claimant and he sought no attention at a hospital. He had no lost wages and his only out-of-pocket expenses were doctor's bill for \$80. Claimant has a monthly income of about \$400 and his wife has monthly earnings of \$280. His claim for property not allowable by the statute. In view of claimant's income and assets, no serious financial hardship was determined and the claim was disallowed.

82-P-69 *

Claimant, male, 26, suffered a gunshot wound in his right chest while attempting to disarm a man who was discharging a gun at several other people in Wheaton. The claim was denied by the Board member and an Appeal was filed with the full Board.

A number of witnesses including the investigating officers testified at the full Board hearing and corroborated the claimant's testimony. Decision on review by full Board reversed. The Board found the claimant to be a victim of a crime and \$342.46 in unreimbursed medical bills. Serious financial hardship was also determined.

Award: \$342.46 for unreimbursed medical expenses, plus \$275 for 5 weeks, @\$55 per week, for loss of earnings making a total award of \$617.46.

83-6-69

Claimant, male 23, was assaulted while stopped at a red light in Baltimore. He was pulled from the car, and assailant took car which was later found wrecked. The Board found that the claimant was in fact the victim of a criminal offense. However, in as much as property losses are excluded and transportation to and from the police station are not an element of loss, the Board found that the claimant did not suffer a minimum out of pocket loss of \$100 or a minimum loss of two weeks or earnings as required by the statute. Claim was disallowed.

84-D-69

Claimant is the widow of a man who was shot to death in his grocery store in Baltimore. The Board member made a preliminary determination that claimant did not have a serious financial hardship as required by the statute. He requested additional information from claimant's attorney, "Having received no response to ours of January 14, 1970 and December 30, 1969, I can assume only that you do not wish to proceed with this claim. Accordingly, on the basis of the information available to us, the claim is denied."

85-P-69 *

Claimant, male, 23, was assaulted on a public street in Baltimore. He sustained lacerations to the inside of his mouth and lost two teeth as a

result of said assault. When the Board originally considered this case, it was denied because claimant failed to furnish information to the Board. The Board was informed that the reason the information was not presented to the Board was that the claimant's attorney had been incapacitated due to a serious illness. The necessary information had subsequently been furnished and the Board was satisfied that the claimant had met all statutory prerequisites for an award.

Decision on review by full Board reversed. Award: \$179 for unreimbursed medical expenses.

86-P-69

Claimant, male, 21, was assaulted by unknown assailants in a public park in Baltimore. Claimant found to be the innocent victim of crime. Section 7 of the statute, however, provides that if claimant does not have \$100 in out-of-pocket expenses, no award can be made. Claimant's out-of-pocket expenses totalled only \$52.55. Claim was, therefore, denied.

87-P-69 *

Claimant, male, 61, was shot three times by assailant during the holdup of his store, receiving serious injuries to his jaw, esophagus, and other parts of his body. Claimant found to be the innocent victim of crime. Serious financial hardship was determined. Claimant was awarded \$860.25 for loss of earnings.

89-P-69

Claimant, male, 29, was assaulted on a public street in Baltimore by several unknown assailants. No award can be made because this claim was filed more than one year following the date of the crime. Accordingly, the claim was disallowed.

90-P-69 *

Claimant, male, 38 was assaulted on a public street in Baltimore County, while getting into his car. He received lacerations and injuries to his right eye. The Board found that claimant was the innocent victim of crime. Serious financial hardship was indicated. Award: \$1,305.25 for unreimbursed medical expenses and for lost time. The unreimbursed medical and hospital expenses were paid directly to the hospital and doctors by the Board.

91-D-69 *

Claimant is the widow of a man who was shot to death on a public street in Baltimore.

Award: \$1,594.80 for nine (9) monthly awards at \$177.20 per month and beginning May 1, 1970, \$177.20 per month. However, in no event shall the total of all payments to the claimant exceed the sum of \$27,500. The Board reserves the right to reopen and reinvestigate this claim and if warranted from the facts then existing, to issue a new order based upon a change in the claimant's financial condition.

94-D-69

Claimant is the mother of a 17 year old boy who was shot and killed on a public Street in Baltimore. At that time the boy's step-father was employed by the City of Baltimore paying at least \$200 per month to the claimant. She also received about \$240 per month from Social Security. She alleges that her son contributed \$15 per week to her for his room and board. The Board found that the claimant was clearly no dependent for her "principal support" upon the deceased and, therefore, was not eligible for an award. Claim was denied.

96-P-69

Claim filed by the claimant on behalf of her daughter, a minor. The victim, while a passenger on a Baltimore Transit Bus, was struck about the left ear by a soda bottle thrown by her assailant, suffering lacerations requiring sixteen sutures. The claimant and her family received public assistance and were certified for aid under the State's Medical Assistance Program. They suffered no loss of income or out-of-pocket loss as a result of the crime. The Board found that the satutory requirements as outlined in Section were not met and the claim was denied.

97-P-69

Claimant, male, 50 alleges that he was the victim of an assault on a public street in Baltimore. First notice to the Board of this claim came in a letter from his attorney dated eleven months after the occurrence. The attorney was advised by a letter from the Board that the law requires a claim to be filed not later than 90 days after the occurrence of the crime upon which the claim was based and that the claim would not be accepted for consideration unless good cause for extending the limitation period was shown. Since there has been no such showing of good cause, this claim was

98-P-69

Claimant, female, 55, was assaulted on a public street in Baltimore by an unknown assailant who attempted to take her purse. The Board found that claimant was an innocent victim of crime. Section 7 of the statute, however, provides that if claimant does not have \$100 out-of-pocket loss, no award can be made. Claimant's out-of-pocket expenses totalled only \$65.40. In view of the claimant's assets and income, serious financial hardship was not indicated and the claim was disallowed.

100-D-69

Claimant's husband, male, 65, was shot and killed by an unknown assailant on a public street in Baltimore, Maryland. The Board found that the decedent was the innocent victim of a crime. It does not find, however, that the claimant was suffering a serious financial hardship as required by Section 12(f) of the statute, in view of her net assets which were approximately \$30,000. The claim was, therefore, denied.

101-P-69 *

Claimant, male, age 40, was shot in the head while driving his car on a public highway in Baltimore City. Claimant is the innocent victim of crime.

Serious financial hardship was determined as to the claimant's past medical expenses and loss of income. The Board also found that the claimant had no present serious financial hardship as he was working and had no reduction in earnings as a result of his injury.

Claimant was awarded the sum of \$176.10.

102-P-69

Claimant is the father of a boy who was eighteen years old at the time he was assaulted by other youngsters on a public bus in Baltimore County. The Board weighed the out-of-pocket losses of \$110 against the assets and income of the claimant, and found that no serious financial hardship was incurred as a consequence of the criminal injury by the claimant. Accordingly, no award was made in this instance.

103-P-69

Claimant, male, 70, was assaulted in his store by an unknown assailant. A hearing was scheduled for claimant and his attorney. Prior to the hearing, claimant's attorney wrote the Board and requested the Board to dismiss the claim as per his client's authorization. Accordingly, the claim was dismissed.

105-P-69 *

Claimant, male, 51, was robbed and assaulted on a public street in Salisbury. The assailant struck the claimant over the head with an iron bar and fractured claimant's skull. The Board found claimant to be the innocent victim of a crime. Serious financial hardship was determined. The bulk of claimant's medical expenses were covered by insurance. Award: \$358.71 for lost time and \$174 for unreimbursed expenses, making a total of \$532.71.

106-D-69 *

Claimant's husband, male, 24, died of a gunshot wound as a result of a crime which took place on a public street in Baltimore. At the time of victim's death, he was supporting claimant and their two children from his salary at his place of employment. The Board concluded that claimant was dependent for her principal support of herself and her children upon the deceased and that she was eligible for an award: Award: \$1,390.20 for seven monthly awards at \$198.60 per month and beginning May 1, 1970, \$198.60 per month. However, in no event shall the total of all payments to the claimants exceed the sum of \$27,500.

108-P-69

Claimant, male, 55, alleges in the filed claim that he was assaulted by three unknown assailants on a public street in Baltimore approximately ten weeks before he filed this claim. Claimant admitted that he never reported the alleged crime. Section 12(a) of the statute provides that no award shall be made unless the Board finds that a crime was committed and the police records show that such crime was promptly reported to the proper authorities. Since there was no police report, the claim was disallowed.

110-P-69

Claimant, male, 50, was the alleged victim of an assault which was never reported to any police or law enforcement authorities. The Board found "for that reason and also because claimant has not sustained a minimum out-of-pocket loss of one hundred dollars (\$100) or two weeks of earnings, no award was made." Accordingly, the claim was denied.

111-D-69

Claimant is the mother of a boy, age 18, who was shot and kinled on a public street in Baltimore by an unknown assailant. The victim was unemployed at the time of his death and did not contribute to the support of the household even when he had been employed.

The Board finds that the claimant was not dependent upon the deceased for her principal support and, accordingly, this claim was disallowed.

2-P-70 *

Claimant, male, 21, was shot in the spine and arm on a shopping center parking lot in Prince George's County. Assailant was apprehended, tried and found guilty of assault with intent to murder. The Board found that claimant was the innocent victim of a crime which directly resulted in personal physical injury and had satisfied all the statutory prerequisites to an award. He had lost the use of both legs and the professional medical prognosis was permanent paraplegia. In addition, he is paralyzed from the waist down and has been deprived of his functional inner organs and sexual capacity. The Board found that claimant was permanently totally disabled, as defined under Maryland Law. Sec Article 101, Section 36(1). Award: \$2,050.50 for unreimbursed medical expenses, plus \$1,827.50 for five monthly awards to March 1, 1970, making a total of \$3,878.00 and beginning March 1, 1970, \$365.50 per month. Claimant's unreimbursed medical expenses are of a continuing nature and they will be paid periodically by the Reard when submitted and verified. However, in no event shall the total of all payments to the claimant exceed the sum of \$45,000.

3-P-70 *

Claimant, female, 40, housewife, was assaulted on a public street in Baltimore by an unknown assailant. Assailant struck claimant on the head, threw her to the ground and stole her purse. She sustained a compound depressed skull fracture. The bulk of claimant's hospital expenses were reimbursed to her with the exception of \$250.09 from insurance. We find the claimant to be the innocent victim of a crime and serious financial hardship was also determined. Award: \$250.09 for unreimbursed expenses.

4-D-70

Claim filed by the victim's sister on behalf of the victim's father. Victim, male, 42, was shot and killed by unknown assailant in Baltimere on a public street. The victim was unemployed and lived alone at the time of his death. Section 5(3) of the statute requires that claimants must be dependent upon the victim in order to be eligible to file a claim with this

Board. The Board found that the victim did not contribute to the support of either his father or sister. The claim was, therefore, denied.

6-P-70

Claimant, male, 71, was assaulted in Baltimore as he was entering his apartment. The claimant is a retired federal employee and receives a pension of \$239 per month. His wife is a school teacher in Baltimore County with a monthly income of \$1,000.

The major portion of the claimant's medical bills were met by medicare. The claimant's remaining bills and out-of-pocket losses are minimal and as such the Board did not find that they constituted a serious financial hardship as required by Section 12(f) of the statute.

Claimant appealed to the full Board. Claimant presented no new facts or evidence at the full Board hearing. The Commissioner's decision was, therefore, confirmed by the full Board.

8-P-70 *

Claimant, male, 31, was assaulted and stabbed in abdomen and right arm by assailant in a bar in Charlotte Hall, St. Mary's County. Assailant was tried and found guilty and committed to the Department of Correction for 18 months. The Board found claimant to be the innocent victim of crime. Serious financial hardship was also determined. Award: \$184.73 for unreimbursed medical expenses and \$261.50 for lost time, making a total award of \$446.23.

9-P-70

Claim filed by father on behalf of his minor daughter, age 10. Their house was burglarized while the family was out visiting. It was alleged that she became panicky, upset and fearful of the dark as a result of the burglary. The psychiatrist did not have any opinion as to the causal connection between the crime and the claimant's illness. The claimant's medical bills were minimal and as such, the Board did not find that they constituted a financial hardship as required by Section 12(f) of the statute.

The claim was denied and an appeal was taken to the full Board. The full Board found no showing of financial hardship and also stated "assuming without deciding that the claimant's illness is a personal physical injury, we fail to find that there is a causal connection between the crime and her illness." The Commissioner's decision was, therefore, confirmed by the full Board.

Claimant is the mother of victim, male, 19, who died from gunshot wounds innocently suffered in Salisbury. He was watching a fight which was taking place on the other side of the street when he was fatally struck by a bullet. At the time of his death, he was living with the Claimant and was paying her \$45 per week for room, board and support of the other fatherless residents in the household. The claimant was working as a farm laborer, but she and the other children were partly dependent upon the

decedent at the time of his death. Because of this partial dependency, which here amounted to principal support under Section 5(a)(3), the Board concludes that claimant is eligible for an award, to be paid in accordance with Article 101, Section 36(8)(b) at the rate of \$45 per week, after the date of death. Award: \$663.50 for unreimbursed expenses and \$967.50 for five monthly award at \$193.50 per month, making a total of \$1,631.00, and beginning April 1, 1970. \$193.60 per month. However, in no event shall the total of all payments to the claimant exceed the sum of \$9,000.00.

11-D-70

Claimant, female, 68, is the widow of a man who was robbed and killed on a public street in Baltimore by a gang of youths. Claimant receives \$119 per month from Social Security and has other assets totalling approximately \$18,000. We find that the decedent was a victim of crime. The Board found, however, that the claimant was not suffering a serious financial hardship as required by Section 12(f) of the statute, in view of her assets. The claim was, therefore, denied. The Board reserves the right to reopen and reinvestigate this claim and if warranted from the facts then existing, to issue a new order based upon a change in the claimant's financial condition.

13-D-70

Claimants are minor children, ages 8 and 9, of a woman who was stabbed and killed during an altercation in an apartment in Baltimore. Our investigation reveals that the claimants were in the care and custody of their maternal grandmother for four years prior to the decedent's death. There was no showing that the victim contributed anything of substance towards the support of the claimants. Their grandmother received \$130 per month from the welfare department for their support. The grandmother also received support payments from the father of one of the claimants through the Probation Department. The Board found that the claimants did not incur any loss of support from the victim as a result of the crime. Accordingly, without deciding any other questions, the claim was disallowed.

14-P-70 *

Claimant, male, 54, was the innocent voitim of an armed assault which took place in Snow Hill, Worcester County. Assailant tried and found guilty. Consequential personal injuries to his face, mouth, head and back resulted in out-of-pocket medical expenses totalling \$828.50, none of which have been reimbursed. Claimant alleges that he could not work for several months after the occurrence, however, the Board followed the expert opinion of claimant's treating physician to the effect the claimant was only disabled for 42 days, which entitled claimant to \$330. Our total award will be \$1,158.50 for lost wages and unreimbursed medical expenses.

17-P-70

Claimant, male, 34, suffered a broken ankle as he attempted to escape three assailant-robbers in College Park, Md. Assailants were tried and

found guilty. The Board initially made an emergency award of \$201.22 to the claimant to meet his living expenses. The Board found the claimant to be the innocent victim of a crime and serious financial hardship was also determined.

Award: \$700.55 for unreimbursed expenses and \$220 for lost time making a total of \$920.55, less \$201.22 emergency award.

18-P-70 *

Claimant, female, 44, was robbed and assaulted on a public street in Baltimore by a purse-snatcher. Our investigation disclosed that the claimant was the innocent victim of an assault-robbery which caused her personal injuries and caused her to terminate working at her regular employment as a registered nurse for four weeks. The Board awarded her temporary total disability benefits for a total of \$220 plus \$39.95 for unreimbursed medical expenses for a total award of \$259.95.

20-P-70 *

Claimant, male, 36, was shot in the chest by an unknown assailant on a public street in Baltimore. The Board found claimant to be the innocent victim of crime and serious financial hardship was determined. His hospital bills, except for \$100 were paid by his insurance company. Award: \$100 for unreimbursed hospital bill plus \$1,042.50 for lost time, making a total award of \$1,142.50.

26-P-70

Claimant, female, 63, sustained a stab wound while walking up stairs to her apartment in Baltimore. She was treated at University Hospital, at no expense to her, and she has incurred no known out of pocket losses. Accordingly, the Board concluded that there was no serious financial hardship attributable to the crime as required by Section 12(f) of the statute, and therefore, no award was made.

27-P-70

Claimant, female, 48, was struck by her son-in-law on the face and head with a hammer while she was sleeping. On the basis of the information provided by the claimant and investigation by this Board, the Board found that the perpetrator of the crime in this instance was related to the victim within the third degree of consanquinity or affinity and, pursuant to Sections 2 and 5 of the statute, she is not eligible for an award. The claim was denied.

28-P-70

Claimant, male, 27, was pulled into an alley in Baltimore where he was assaulted and robbed by two unknown assailants. The Board found that claimant was the innocent victim of a crime. Our investigation indicates, however, that claimant did not lose two continuous weeks of earnings or incur a minimum out-of-pocket expenses of one hundred dollars as required by our statute. The claim was, therefore, dismissed.

30-D-70 *

Claimant's husband died as a consequence of a vicious assault which had occurred outside his home in Baltimore. At the time of the occurrence, he was receiving a small pension from the Veteran's Administration, \$107 per month, and earned approximately \$25 per week as a newspaper salesman. The Board found the claimant's husband was the innocent victim of a crime. It further found that the claimant was not totally dependent upon her husband for her support at the time of the crime. Claimant filed claims with Social Security and Veteran's Administration. Serious financial hardship was determined regarding the victim's unreimbursed expenses. The claimant was awarded \$1,803.00, the total amount of her medical and funeral expenses.

33-P-70

Claimant, female, 67, was assaulted and robbed on a public street in Baltimore by a purse snatcher. Her hip was broken during the scuffle. Claimant on March 5, 1970 telephone the Board and subsequently sent a letter confirming her telephone call to the Board requesting that her claim be withdrawn. She stated that she did not wish to divulge her assets to the Board as she felt they were of a personal nature. Accordingly, the claim was withdrawn.

34-P-70 *

Claimant, female, 60, assaulted and robbed on a public street in Annapolis by a purse-snatcher. She was knocked to the ground and sustained a fractured pelvis. The bulk of her medical bills were paid paid by insurance. The Board initially made an emergency award of \$200 to the claimant. The Board found claimant to be the innocent victim of a crime. Serious financial hardship was also indicated. Award: \$32.85 for unreimbursed medicals plus \$720 for lost time, making a total of \$752.85. Prior emergency award of \$200 was deducted from award making a net award of \$552.85.

43-P-70 *

Claimant, male, 29, was injured by a gunshot wound on a public street in Baltimore. The Board found that the statutory prerequisites were met, and that substantial financial hardship would exist if an award was not made. Award: \$709.84 for unreimbursed medicals and \$230.40 for lost time, totalling \$940.24.

46-P-70 *

Claimant, female, 48, was assaulted on a public street in Baltimore. She sustained stab wounds and cuts about her left shoulder and leg. When the Board originally considered this case, the claimant failed to furnish and clarify any out-of-pocket losses other than a bill for \$165 from Johns Hopkins Hospital. The Board made an award to claimant in the amount of \$165.

An appeal to the full Board was taken from this award. The Board has since been apprised and convinced of the fact that claimant lost four

weeks time from work. Her average weekly was was \$50. The full Board was satisfied that the claimant had met all statutory prerequisites for an award.

Decision on review by full Board affirmed in part and reversed in part. Award: \$165 for unreimbursed medical expenses and \$133.32 for lost time making a total award of \$298.32.

54-P-70

Claimant, male, 64, was seriously assaulted by two unknown assailants who burglarized his home in Baltimore County. Claimant sustained personal physical injuries which necessitated his confinement to the hospital. His medical bills were all paid by private insurance, however, he was unable to work for twleve weeks. He received \$70 per week in disability benefits during that period. He possessed savings in the amount of \$28,000.

The Board found that the claimant had not sustained a serious financial hardship as required by Section 12(f) of the statute.

Claimant filed an appeal to the full Board. The full Board found that claimant had not sustained a serious financial hardship. Decision was, therefore, confirmed by the full Board.

79-P-70 *

Claimant, female, 21, was assaulted by her former boyfriend on a parking lot in Baltimore County. She sustained a broken jaw as a direct result of said assault. Assailant was tried, found guilty and sentenced to 30 days in the Baltimore County Jail. The Board found claimant to be the innocent victim of crime and serious financial hardship was determined. Award: \$240 for unreimbursed medical expenses and \$46.66 for lost time, making a total of \$286.66.

81-P-70 *

Claimant, female, 47, was assaulted on a public street in Baltimore by an unknown assailant. She sustained a laceration over her left eye. The Board found claimant to be an innocent victim of a crime and serious financial hardship was also indicated. Award: \$42 for unreimbursed medical expenses and \$110 for lost time, making a total award of \$152.00.



STATE OF MARYLAND CRIMINAL INJURIES COMPENSATION BOARD SECOND ANNUAL REPORT 1971

Joseph Pickus
Chairman

GEORGE H. C. ARROWSMITH
DENNIS C. McCoy
Commissioners

MARTIN I. MOYLAN Executive Director

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STATE OF MARYLAND CRIMINAL INJURIES COMPENSATION BOARD

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BALTIMORE, MARYLAND 21201

(301) 523-5000

Joseph Pickus
Chairman
George H. C. Arrowsmith
Dennis C. McCoy
Commissioners

MARTIN I. MOYLAN Executive Director

TO:

Honorable Marvin Mandel Governor of the State of Maryland Colonel Robert J. Lally Secretary

Department of Public Safety and Correctional Services HONORABLE LEGISLATIVE COUNCIL State of Maryland

Gentlemen:

I have the honor to submit the second report of the Criminal Injuries Compensation Board for the fiscal year of 1971, rendered pursuant to the provisions of Article 26A of the Annotated Code of Maryland.

Respectfully, JOSEPH PICKUS Chairman

Baltimore

Dated: July 15, 1971

SECOND REPORT OF THE CRIMINAL INJURIES COMPENSATION BOARD STATE OF MARYLAND

TO:

Honorable Marvin Mandel
Governor of the State of Maryland
Colonel Robert J. Lally, Secretary
Department of Public Safety and
Correctional Services
Honorable Legislative Council
State of Maryland

Gentlemen:

We have the honor to submit this, our Second Report:

I. ADMINISTRATIVE BACKGROUND

This report covers the period of July 1, 1970 through June 30, 1971. It is the second year of the Board's existence.

The Criminal Injuries Compensation Board was created on July 1, 1968. The State of Maryland was one of the first states in this country to create a program of compensation to crime victims. Since that time, several additional states have created similar programs and presently the federal government is considering a program. Numerous other states and Senator Mansfield's office, have called upon this Board for its experience looking forward to adopting some program to compensate innocent victims of crime. This Board has always cooperated with these inquiries and will continue to do so in the future.

On May 27th, 28th and 29th, 1970, this Board hosted the Second International Conference for Compensation to the Innocent Victims of Crime. The conference was well attended and as a direct result, an International Association of Criminal Injuries Compensation Boards was formed.

The new organization's primary goal will be the co-ordination and co-operation of the various Criminal Injuries Compensation schemes. The creation of this new organization, in itself, reflects the awakening of the social consciences of the people of the western world towards the compensation and rehabilitation of the innocent victims of crime. Stanley L. Van Rensselaer, Chairman of the Crimes Victim Compensation Board of New York and George J. Bryan, Q.C., Chairman of the Crime Compensation Board of Alberta, Canada were elected Co-Chairmen. Joseph Pickus, Chairman of the Criminal Injuries Compensation Board of Maryland was elected Treasurer and Professor Allan M. Linden of York University, Osgoode Hall Law School, Ontario, Canada was elected Secretary.

We are now cooperating and exchanging information and statistics with the Members of the organization and the benefits derived are invaluable.

II. CATEGORIES OF AWARDS

We shall set forth later in this report an analysis of the claims, together with the type of crime committed, as well as separate the claims generally into three categories:

- a. Lump sum payments—where the claimant returns to work with no diminution in earnings.
- b. Protracted claims—where the decision is made and then provides for periodic monthly payments during the continued disability and diminution in earnings, and lastly
- c. Death claims—where again the decision is made making an award up to the time of the decision and then providing for a monthly payment to the dependents.

Our awards are paid pursuant to Section 36 of Article 101 of the Annotated Code of Maryland, which is the Award Section of the Maryland Workmen's Compensation statute.

III. RULES AND REGULATIONS

This Board, pursuant to the provisions of its statute, adopted Rules and Regulations, which were approved and duly filed with the Secretary of State, Clerk of the Court of Appeals, etc. The Board in these Rules and Regulations set up certain guidelines to determine serious financial hardship. Unless serious financial hardship is shown, no award can be made.¹

IV. PUBLIC AWARENESS

The number of applications received in the last six months of the fiscal year increased dramatically over the number received in the first six months of the fiscal year. Inasmuch as there has been and there continues to be an increase in public awareness of the legislation and of the Board, we anticipate similar substantial increases in the next fiscal year. Notwithstanding the increase in applications submitted to us, we note that only a small percentage of the victims of what appeared to be eligible crimes committed in Maryland are filing applications. For that reason, we will continue to discharge our responsibilities to advise the public concerning the benefits available under the statute. We consider this duty of advising and informing our citizenry to be an extremely important and continuing one.

The Board has been the subject of numerous newspaper releases and stories. We have also used and are indebted to various radio stations for allowing us public service time for spot announcements. Radio and television stations in Baltimore, New York, Washington, D. C., Hagerstown, and Salisbury have also conducted programs explaining the Criminal Injuries Compensation Board.

^{1 59-}P-69; 15-D-70

We have also contacted all the Social Service Departments, Police Departments, Workmen's Compensation Commission, various state departments, county departments, Legal Aid Societies and all hospital and similar types of organizations, informing them of our Board. The Board also prepared a brochure explaining, in laymans' terms, the statute. The Board has now distributed over 100,000 of these brochures in all parts of the State.

The Board recognizes that the public is not as yet well informed and we shall continue our efforts within our own limitations to make use of the news media, radio and television to accomplish this.

V. TIME LIMITATIONS

In order to be eligible for an award, police records must show that the crime was reported to the police no more than 48 hours after the occurrence of such crime.² This requirement can be waived by the Board in exceptional circumstances upon the showing of good cause. Claims must also be filed not later than 180 days after the occurrence of the crime, upon which claim is based or not later than 180 days after the death of the victim. The Board can for good cause shown extend the time for filing up to two years.

VI. STATISTICAL EXPLANATIONS

The number of claims that were accepted and investigated were 308 and in addition to that, there were what shall be termed as inquiries, 1,500. These inquiries were not processed by opening a file and starting an investigation because the Secretary of the Board, who is also the Executive Director, did not find the claimants to be eligible under our statute. We have had for example, a number of inquiries from citizens of this state, who were injured in crimes that took place in other states and in particular, the District of Columbia. We have also had inquiries from various creditors and distant relatives of the deceased victims who do not meet the eligibility of the statute. Crimes involving automobiles are also excluded by the statute unless intentionally committed and are likewise rejected by the Secretary. Sometimes it also becomes necessary for a preliminary investigation to be conducted to determine if the claim or inquiry was one that should be accepted for investigation. This is done to save the time of the investigative staff and save the costs of processing the claim. Of the 308 claims accepted and filed, there were 234 decisions rendered, of which 111 awards were made and 123 were disallowed. The reasons for disallowance of the claims are as follows:

No Crime	2
Did not meet minimum requirement	3
No loss of support	37
No serious financial hardship	
Failure to furnish information	4
Provocation	

No police report filed	1
Withdrawn	2
Ineligible	2
Member of a family	5
Motor vehicle	0

During this time there were 28 emergency awards made. There were 244 personal injury claims and 64 death claims. Attorney's filed the claims on behalf of 90% of the claimants. The type of crime is illustrated by the following:

Assault	78
Stabbed	34
Murdered	71
Shot	85
Mugged	25
Manslaughter by automobile	0
Burglary	1
Assisting in arrest	0
Rape	1
Miscellaneous	13

Of the 234 decisions which were rendered by the single Board Member, there were 36 Appeals to the full Board. Full Board Appeals are held in the Board's offices in Baltimore, Maryland. However, the Board Members and the Executive Director, who also functions as a hearing officer, conduct hearings throughout the State. The full Board has affirmed 29 cases on Appeal and 3 were reversed and 4 were allowed to be reopened for further investigation and/or further proof to be submitted.

The lump sum awards averaged \$1,850. In the death claims, without taking into consideration the amount set forth in the decision but only for the periodic monthly payments, payments averaged \$2,400 per year per claim. In a protracted claim the average is \$1,625 per year per claim. At the present time, 29 death claims and 16 permanent total claims are being paid monthly.

Since periodic payments are made monthly in protracted and death cases, periodic checks are made to determine if the payments should continue. In protracted cases, if there is a change in dependency, remarriage, emancipation or any other circumstances or contingency that would alleviate claimant's financial hardship, payments are then stopped.

VII. PROCEDURES IN FILING AND HANDLING CLAIMS

 Upon inquiry to the Board, a claim form is given or mailed to the prospective claimant, who is advised to submit the completed form together with medical reports, receipts and the material to support his claim.

- 2. When the executed claim form is filed with the Board it is reviewed by the Secretary to determine if the claimant is in compliance with statutory eligibility and jurisdictional requirements.
- 3. If the claim is accepted by the Secretary, it is docketed and a file is set up on the claim.
- 4. The Board then acknowledges the claim and contacts the appropriate police department for a copy of the police report.
- 5. An investigation is conducted to determine and verify various aspects of the crime and the injuries and expenses incurred thereby.
- 6. If a hearing is deemed necessary, the claim is scheduled for a hearing before a single Commissioner and all appropriate witnesses are notified and subpoenaed if necessary. These hearings are conducted throughout the State.
- 7. While the evidence is given under oath, the Board tries to develop an atmosphere of informality in the hearing room which is conducive to the obtaining of the required information in support of a claim.
- 8. If claimant is dissatisfied with the decision of the single Commissioner, he can request a reconsideration by the full Board.
- 9. The full Board's hearings are usually conducted in Baltimore.
- 10. When a final decision is made at either level and it is acceptable to the claimant, it is then sent to the Attorney General and Secretary of the Department of Public Safety and Correctional Services, who have 30 days to take an appeal to the appropriate court if they think the award is improper.
- 11. If no Appeal is taken, the award becomes final.
- 12. In protracted awards the Board pays each award as specified direct to the claimant.

The Board has investigated and rendered a number of decisions in less than 30 days. However, the average is 60 days. There are, of course, many reasons that delay the Board's decisions. The State's Attorney may request the Board to discontinue investigation until he advises that the Board can proceed. This generally means awaiting the disposition of the criminal matter. In other claims, there may be delays due to the fact that it is impossible to determine the degree of permanent disability until maximum physical improvement is reached.

It is also difficult in death claims to complete the investigation where there are Social Security benefits undetermined, as well as Workmen's Compensation claims undecided. In other instances it is impossible to obtain the information from Blue Cross or Blue Shield because enough time has not elapsed from the time the claimant was discharged from the hospital, or he is still under the doctor's care and a final bill with Blue Cross and Blue Shield benefits is not available.

There is also delay experienced with respect to verification of the financial resources of the claimant.

It has been found that even where there are serious questions to be determined, and the claimant cooperates, a speedy conclusion can be rendered.

However, in claims where there is provocation which requires intensive investigation, there is delay experienced due to attempting to locate and interview reticent witnesses.

VIII. EMERGENCY AWARDS

Emergency Awards are made in cases pending a final decision where undue hardship is evidenced. In the past year 28 emergency awards were made.

IX. ATTORNEYS

The claimant is entitled to representation by an attorney from the time the claim is filed. Over 90% of the claimants are represented by attorneys.

X. PROJECTIONS

The projected number of claims can be better estimated now that we have completed our second year of operation.

It is believed there will be at least 400 claims filed which will require investigations. This does not include the inquiries which we expect we will be able to handle in the same way as hereinabove outlined.

Not only is the public better informed and becoming more so continually, but the distribution of brochures and the publicity that has been given to the Board certainly are factors that should be considered.

Another factor is that the crime rate as reported by the Federal Bureau of Investigation, and particularly those crimes in which personal injuries are suffered, is on the rise again this year.

It should be noted that during the second year's activities there were 308 claims received and investigated and the growth and increase in the Board's work and activity is reflected in the number of claims in this report.

Based on this information, it is reasonable to expect that there will be at least 400 claims filed in fiscal year 1972.

XI. COSTS

Section 17 of the statute imposes an additional \$5.00 in Court costs on all persons convicted of a crime by any Judge with criminal jurisdiction in the State. Since the inception of the statute, the following court costs have been collected by the Comptroller:

Fiscal Year	Collected	Expended	Awards
1969	118,948.60	None	None
1970	135,438.75	66,151.13	328,000.00
1971 Estimate	150,000.00	215,000.00	614,283.39
1972 Estimate	165,000.00	300,000.00	850,000.00

XII. PAYMENT OF AWARDS

Our awards in the past fiscal year totalled \$622,074.41. Of that total, \$120,971.05 was awarded in lump sum payments and \$588,283.36 was awarded in protracted payments none of which vested to the claimant and in the event of a change in circumstances regarding the claimant, such as death, the unpaid portion will terminate and revert to the State. All protracted payments are paid monthly by the Board's staff. Currently, approximately \$6,500 is being paid monthly in protracted payments or annually. It is anticipated that in the current fiscal year these protracted payments will grow.

Attached hereto, Appendix A, is the summary of the decisions which have been made by this Board during the past year.

XIII. REDUCTION OF AWARDS

The Board can reduce an award or deny it altogether if it determines that the claimant contributed to the infliction of his injury.³ It has been our experience that a thorough review of the crime, beyond that of the police and court records, is necessary in approximately 20% of our claims.

XIV. POLICY, INTENT AND PHILOSOPHY

The reasons for compensating innocent victims of violent crime are expressed in the declaration of policy and the legislative intent in the statute, such as the failure of the state to insure the safety of its citizens and a sense of responsibility which a humane society feels for victims of crime. However, there are other compelling reasons to reimburse innocent victims of violent crimes. The worry that encompasses a victim while recovering from the injuries and without funds to pay his medical expenses, or to maintain his family is undoubtedly more harmful to his recovery than the pain that he suffers.

The traumatic impact upon the family of the victim who dies facing the future with uncertainty of not only how to pay the medical and/or funeral bill, but where they will turn to replace the support lost through death.

^{3 56-}D-70, 141-D-70

The State of Maryland, being one of the leaders in this field, reflects the awakening of the social consciousness of the people of the western world to the assisting of innocent victims of crime in somewhat the same manner that State mandated programs provide for illness, disability, old age and unemployment.

During the past year the Board has learned from police agencies that in many instances the victim is not interested in prosecution of his assailant because he has many more immediate and pressing problems. In addition, the victim without the benefits of this statute is left with nothing except his bills, the worry of his family, as well as the disruption of his household. However, since the innocent victim of crime in the State of Maryland may file a claim, it is hoped, and there has been some experience to indicate, that he would be more willing to cooperate with the law enforcement agencies knowing someone cares about him. In this respect the victim who was an unwilling and uncooperative witness now becomes a willing and cooperative witness.

The Board has continued to treat each claimant not as an adversary, but rather to determine the full and true facts concerning each claim. We are dedicated to seeing that those people who are entitled to an award shall receive the same, but we are equally dedicated and vigorous in our investigation to deny an award to anyone who is not entitled to the same.

It is the feeling of the Board that the assistance afforded the innocent victim of a crime is helping and aiding in the administration of justice.

XV. AMENDMENTS

The statute was amended and liberalized to allow the Board to make disability awards to victims who were not employed at the time of the crime and who had no average weekly wage upon which to compute an award.

XVI. INTER-AGENCY COOPERATION

Finally, the Board acknowledges the cooperation of the State's Attorneys throughout the State in aiding in this program.

We also acknowledge the cooperation of each and every law enforcement agency and particularly the State Police who have been of great assistance and willingly have made the information available.

The Board expresses its thanks to the staff which has been training continually throughout the year to facilitate the handling of the paper work and the investigators in expediting the investigations. They have helped develop and invoke enthusiasm and energy in all matters.

XVII. ANALYSIS AND FUTURE NEEDS

An noted in prior paragraphs, it is anticipated that the work load of this agency will greatly increase every year for the next few succeeding years. Consequently, budget needs will increase yearly. To substantiate this position, we need only refer to continual public awareness, crime statistics and the experience of other States such as New York and Hawaii. Moreover, the need of additional staff as well as at least one or more full time Commissioners will arise in the near future according to projections at this time. We shall continue our endeavors to implement the most effective and efficient administrative systems and methods to implement the statute at the least possible cost. Because of the new legalistic concept of our statute as well as the newness of our physical operation, unique and complex legal problems are raised at almost every full Board hearing. For these reasons, we must constantly in our service to the public and State, be on guard with respect to the legal and constitutional needs of all parties. As a result of our experiences, we also intend to submit various amendments to the law through the Secretary of our Department which we believe will further implement the philosophy and spirit of the Criminal Injuries Compensation Act.

XVIII. ACKNOWLEDGEMENTS

It would be remiss for the Board to fail to acknowledge the work which the Executive Director and Secretary to the Board has carried on and acknowledge the increase in the duties of his offices, all of which have been handled exceedingly well.

All of which is respectfully submitted.

Dated: July 15, 1971

Baltimore, Maryland

MARTIN I. MOYLAN Secretary to the Board and Executive Director

JOSEPH PICKUS, Chairman GEORGE H.C. ARROWSMITH,

Commissioner

DENNIS C. McCOY, Commissioner

SUMMARY OF CLAIMS June 30, 1970 to July 1, 1971

*Claim #4-P-69

Claimant is a male, 52, who was shot in his abdomen by an assailant on a public street in Baltimore. The bullet lodged in his spine between intervertebral disk space L2 and L3 and its removal was not recommended. Assailant was apprehended, tried, found guilty and given a ten year sentence. Claimant received \$60 per week for twenty weeks from insurance, after which he went on public assistance at \$176 per month in February, 1969. We found "that claimant is the innocent victim of crime and serious financial hardship is indicated. This Board had claimant examined by two doctors to determine his physical condition. We further find that claimant has a 40% permanent partial disability to his body as a whole. Award: \$220.50 for lost time time @ \$15.25 per week for 14 weeks, plus \$5,000 or 200 weeks @ \$25 per week, payable at \$107.50 per month beginning December 1, 1970. This Board reserves the right to reopen and reinvestigate this claim and if warranted from the facts then existing to issue a new order based upon a change in the claimant's financial condition."

*Claim #28-D-69

Claimant, age 70, is the widow of a man who was shot to death on a public street in Baltimore by an unknown assailant on December 4, 1968. We found deceased to be the innocent victim of a crime and serious financial hardship was determined. "Award: \$3,251.60 for 13 monthly awards of \$173.20 per month and \$1,098.30 for 7 monthly awards @ \$156.90 per month. However, in no event may the total of all payments made to claimant exceed the sum of \$27,500.00. This Board reserves the right to reopen and reinvestigate this claim and if warranted from the facts then existing to issue a new order based upon a change in the claimant's financial condition."

*Claim #44-P-69

Claimant, male, age 76, was assaulted and robbed outside his home in Quantico, Maryland. Assailant was tried, found guilty and is presently serving 20 years for the crime. Claimant sustained a skull fracture and has been unable to work since the crime. The bulk of his medical expenses have been paid by Medicare. We found claimant to be the innocent victim of crime. Serious financial hardship was also indicated. "Award: \$246.24 for unreimbursed medical expenses and \$2,500.00 for lost time, @ \$50 per week for 50 weeks. We further find claimant has a 15% permanent partial disability. Claimant shall receive monthly awards of \$107.50, beginning August 1, 1970, until the permanent partial award of \$1,875.00 is exhausted. Total award is, therefore, \$4,621.24. The Board reserves the right to reopen and reinvestigate this claim and if warranted from the facts then existing, to issue a new order based upon a change in the claimant's financial condition."

*Claim #46-P-69

Claimant, male, age 36, was shot while witnessing a domestic quarrel between a man and his wife. The assailant was arrested, tried and found guilty and placed on probation. We found claimant to be the innocent victim of a crime. Serious financial hardship was also determined. Award: \$191.80 for unreimbursed medical expenses, plus \$183.72 for lost time making a total of \$375.52, less attorney's fee.

Claim #56-D-69

Claimant is the widow of a man who was shot to death in his liquor store in Baltimore County. Assailants were apprehended tried and found guilty of second degree murder. We have made numerous inquiries and requests to the claimant to determine her financial resources but have been unsuccessful to date. Article 26A of the Maryland Annotated Code, Section 12(f) provides there must be a showing of financial hardship or the loss of support. We found that there has been no such showing. In view of the statutory requirements, there can be no award. Claim was, therefore, denied.

Claim #59-P-69

Claimant, age 56, female, unemployed and on welfare, was shot in the chest on a public street in Baltimore City. Her assailant was apprehended and trial is pending. Claimant received welfare and medicaide. We found that although Claimant was an innocent victim of a crime, she was ineligible for an award under our statute. Claimant had no unreimbursed medical expenses and no loss of earnings, nor had she sustained any out of pocket losses as a result of this crime. We further found that claimant failed to meet the minimum allowable claim requirement and the serious financial hardship requirements of Article 26A of the Annotated Code of Maryland. Claim was, therefore, denied.

*Claim #74-P-69

Claimant, male, age 24, was shot and injured on a public street in Salisbury, Maryland. Claimant sustained gunshot wounds to his right arm, forearm, shoulder, right anterior chest and abdomen. A colostomy was performed on claimant and his ulnar nerve was also damaged. This Board made an emergency award of \$500 to claimant. We found "that claimant is the innocent victim of a crime, which directly resulted in personal physical injury and has satisfied all the statutory prerequisites to an award. We further find that claimant has a 35% permanent partial disability under other cases and the Commission will allow compensation for this disability to the amount of \$4,375. Award: \$1,075 for 10 monthly awards to August 1, 1970 and beginning August 1, 1970, \$107.50 per month, not to exceed the sum of \$4,375, plus \$460.66 for lost time and \$1,951 for unreimbursed medical expenses, less attorney's fee."

Claim #75-P-69

Claimant, male, 21, was shot in Salisbury, Maryland on a public street. He lost one and a half weeks from work and incurred a \$27.10 hospital bill. Claimant was an innocent victim of crime. It was found, however, "that claimant does not meet the statutory requirements as set forth in Section 7 of Article 26A of the Annotated Code of Maryland. Accordingly, this claim is denied."

Claim #81-P-69

Claim is filed by the mother of a 18 year old male who was shot in the left hand and right arm during a fight in Calvert County at a Drive-In. The victim's medical bills were paid by the State's Medical Assistance Program. At the time of the incident, victim was receiving temporary total disability benefits from a Workmen's Compensation Claim and said benefits continued to August 31, 1969, whereupon he received a permanent partial award of \$25 per week for 43.75 weeks. Victim was released by his doctor on September 9th, 1969 as completely healed. We found "claimant did not incur a serious financial hardship as a result of the incident as required by Section 12(f) of Article 26A of the Annotated Code of Maryland. Accordingly, this claim is denied."

Claim #93-P-69

Claimant, male, age 36, was found lying on a parking lot of the alleged assailant, bleeding around the head. Claimant was also found to be in the last stages of withdrawal, verging on delirium tremors. Our investigation revealed, "that claimant had been in an automobile accident earlier in the day and also in a fight outside a nearby bar shortly before he was found on the parking lot of the alleged assailant. We find that there is no credible evidence of an assault and the claim is, therefore, denied."

*Claim #95-P-69

Claimant, female, 67, was assaulted and robbed by two unknown assailants in a public street in Baltimore. She suffered a broken shoulder, and head, face and arm injuries. The bulk of her medical bills were paid by insurance. We found claimant to be an innocent victim of a crime and that she met all the necessary statutory criteria for an award. We also found that claimant sustained a 10% permanent partial disability to her body as a whole, and has a diminution in earnings as a result thereof. We further find that claimant lost 19 weeks from work as a result of the incident. Award: \$1,250.00 for permanent partial disability starting March 1, 1970 and payable in a lump sum plus \$475.00 for lost time, 19 weeks at \$25.00 per week and \$77.80 for unreimbursed medicals, for a total of \$1,805.80, less attorney's fee.

*Claim #109-P-69

Claimant, male, age 33, received serious injuries to his face and left eye when the assailant threw lye into his face in a tavern in Baltimore City. The Board found the claimant to be the innocent victim of a crime and the claimant met all statutory criteria for an award. It did not, however, give claimant an award for permanent partial disability to his eye, as he returned to work after the incident with no diminution in earnings. Our original award to claimant was \$2,058.24 for lost time, plus \$15.00 for unreimbursed medicals, less \$687.00 for welfare payments, making a total net award of \$1,386.24.

The Board reopened and reconsidered the claim, upon request several months after making its original award. Its investigation revealed that the claimant was unemployed and receiving \$55 per week from the Department of Employment Security. The Board found "that the claimant has a 100% permanent partial disability to his left eye and that there is a causal connection between his unemployment and his injury. Subsequent to the filing of his petition for a reconsideration, claimant was granted a \$200.00 emergency award.

Award: Permanent partial disability, 267 weeks at \$40.00 per week, \$10,680.00 for said disability, less prior \$200 emergency award. Claimant will also receive six retroactive monthly awards in the amount of \$1,032.00 in a lump sum and beginning June 1, 1971, he will receive \$172.00 per month. However, in no event shall the total of all payments to claimant exceed the sum of \$10,680, less attorney's fee, all subject to the provisions of the Criminal Injuries Compensation Act of Maryland and the further order of this Commission."

*Claim #1-P-70

Claimant, female, 40, was assaulted and raped in a ladies room in a bar and restaurant in Baltimore. She suffered numerous contusions and abrasions to her body along with a cut over her left eye which required sutures. She also required medication for vertigo. We find that claimant is the innocent victim of a crime and serious financial hardship is also determined. Award: \$220.95 for unreimbursed medical expenses, \$330 for lost time (6 weeks at \$55 per week) and \$625 for 5% permanent partial disability to her central nervous system, for a total award of \$1,175.95.

*Claim #5-D-70

Claimant is the widow of a man who was shot and killed in his place of business in Baltimore by an unknown assailant. Claimant immediately went on public assistance. She also receives \$24 per month Social Security Benefits, in addition to the \$103 per month from the Department of Social Services. We find that the claimant is an innocent victim of a crime and serious financial hardship is determined. We also find that the victim's average weekly wage was \$68.77. Award: \$991.03 for unreimbursed medical and funeral expenses, plus \$506 for 11 monthly awards at \$46 per month (\$174 less \$127, welfare and Social Security payments) and beginning September 1, 1970, \$173 per month. An emergency award of \$500.00 was made by this Board to claimant shortly after we received her claim, and is therefore deducted from claimant's lump sum award, for a net award of

\$996.03, less attorney's fee. However, in no event may the total of all payments to claimant exceed the sum of \$27,500. The Board reserved the right to reopen and reinvestigate this claim and if warranted from the facts then existing, to issue a new order based upon a change in the claimant's financial condition.

*Claim #7-P-70

Claimant sustained a gunshot wound to the face, neck and left shoulder while a pedestrian on a public street in Salisbury, Maryland. The Board found, "He does not appear to have contributed to the infliction of his own injury and otherwise seems to be the innocent victim of a crime. The Board finds, based upon the professional medical opinion of an examining physician, that claimant has no permanent disability within the contemplation of the Maryland statute and that he is entitled to be reimbursed for his out-of-pocket losses in the amount of \$330.01. An award in that amount is hereby entered.

Claim #15-D-70

Claimants are the wife and children of a service station attendant who was shot and killed during a robbery at his place of employment in Cambridge, Maryland. The victim's average weekly wage was \$78.20, at the time of his death. Claimants filed for Workmen's Compensation and a total dependency award was made by the Workmen's Compensation for \$26,135 plus \$750 towards the victim's funeral expenses.

Claimants received Workmen's Compensation Benefits, Veteran's Administration and Social Security Benefits of approximately \$112 per week.

The single Board member found that the deceased was an innocent victim of a crime but did not find, however, the claimant had a serious financial hardship as a result thereof. It was determined that the claimants were receiving more income per week than when the deceased was alive. Recovery was also denied by virtue of Section 12(d), Article 26A of the Annotated Code of Maryland, which in effect precludes awards by this Board in cases where the Workmen's Compensation Commission has made an award.

The claimants were represented by counsel at the full Board hearing and it was asserted that Section 12(d) of the statute was not applicable to the instant case. Claimants also asserted that although they were currently receiving more income than before the death of the deceased, they still have a serious financial hardship.

The Board further found "the language of Section 12(d) of the statute to be clear and distinct. We also do not find that the claimants have a serious financial hardship. It is all too obvious that the claimants' financial circumstances have greatly improved since the decedent's death.

Accordingly, the Commissioner's decision is affirmed by the Board."

*Claim #19-P-70

"Claimant, female, age 68, was assaulted and robbed on a public street in Baltimore, Maryland by an unknown assailant. She sustained a fracture and dislocation of her left shoulder. We find claimant to be the innocent victim of a crime. Serious financial hardship is also determined. Award: \$221 for unreimbursed medicals, less attorney's fee."

Claim #24-P-70

Claimant, male, 23 while working as a part-time clerk in a store was shot in the face with a tear gas gun by two hold-up men in Prince George's County. Claimant also filed a claim with the Workmen's Compensation Commission and was granted an award for the injuries growing out of this incident.

The Board found "the claimant is an innocent victim of a crime. We also find that since this Board uses the same section of the Maryland Annotated Code for awards as does the Workmen's Compensation Commission, Section 36 of Article 101, and since Section 12(d) (2) of our statute, Article 26A, requires that we shall reduce our awards by awards of the Workmen's Compensation Commission, this in our opinion precludes claimants injured while working on the job from collecting both Workmen's Compensation benefits and benefits of our statute. Accordingly, this claim is denied."

*Claim #25-P-70

Claimant, male, 20, was shot in the head, left arm and left leg during an exchange of gunfire between police and his abductor in Baltimore County. Our investigation revealed that claimant had been abducted and did not contribute to or provoke the incident. The abductor was killed by police gunfire during the battle. Claimant sustained numerous scars to his leg and arm as a result of the incident and the subsequent surgical repair. The Board found claimant to be the innocent victim of a crime and serious financial hardship was indicated. Award: \$240 for unreimbursed expenses, \$491.94 for lost time, and \$500 for disfigurement (20 weeks @ \$25 per week), less attorney's fee.

Claim #29-P-70

Claimant, female, 47, was assaulted and robbed by two unknown assailants on a public street in Baltimore while on an errand for her employer. She filed a claim both with us and the Workmen's Compensation Commission. Claimant was granted an award for her injuries which resulted from this incident. All claimant's medicals were paid by insurance and she has received full pay from her employer for her lost time. We found claimant to be the innocent victim of crime. We do not, however, find claimant to have a serious financial hardship as a result of the incident. Claimant has already received compensation from the Workmen's Compensation Commission and said award in effect cancelled out any award we could make. See Section 12(d)(2) of Article 26A of the Maryland Annotated Code. Accordingly, this claim was denied.

*Claim #31-P-70

Claimant is a male, age 42, who was struck on the head while fighting with a fellow patron in a bar in Baltimore City.

It was determined by the Commissioner that the Claimant was not the innocent victim of a crime and that the claimant was injured as a result of an altercation which he had, in large measure, provoked. The Commissioner also found that the claimant did not suffer the statutory minimum \$100 out-of-pocket loss or two consecutive weeks loss from his employment. It was further found by the Commissioner that the claimant did not fully cooperate with the police officials.

At the full Board hearing the claimant appeared, represented by counsel. Three witnesses also appeared and testified on his behalf.

We concluded, "after due consideration, that the Commissioner's decision was proper. Assuming, without deciding, that the Claimant did not provoke the fight in which he was injured, we find that the claimant will not suffer a serious financial hardship and that the statutory minimum loss was not established.

The Commissioner's decision is, therefore, affirmed by the full Board."

*Claim #32-P-70

Claimant, female, 22, was abducted, assaulted and raped in Prince George's County by two assailants. They slashed her throat, neck and left wrist. Assailants apprehended, tried and found guilty of kidnapping and rape. Our investigation revealed that claimant's ulnar nerve and tendons were severed and the lacerations to her neck cut the strap muscles and opened the trachea. Claimant is now employed at a greatly reduced salary, as she is unable to type due to her disability. The Board found "claimant to be the innocent victim of a crime and serious financial hardship is determined. We further find that claimant has a 40% permanent partial disability to her body as a whole as a result of the incident. Award: \$549.99 for lost time, \$1,047.84 for unreimbursed medical expenses and \$25 per week for 200 weeks, beginning January 5, 1970 but in no event to exceed \$5,000, for a total award of \$6,597.83, less attorney's fee. A retroactive payment of \$1,075.00, 10 monthly awards at \$107.50 per month will be paid as part of the lump sum award and beginning December 1, 1970, the claimant will receive \$107.50 per month until the balance of her award is exhausted."

*Claim #37-P-70

Claimant, male, 48, was assaulted and robbed on a public highway in St. Mary's County by an unknown assailant. Claimant had stopped to make a telephone call at a roadside telephone booth and as he started to get back into his truck, he was struck on the head and his skull was fractured. This Board had claimant examined by a psychiatrist who found that the injury triggered a moderately severe mixed neurosis with disassociative episodes, fear, anxiety and depression in the claimant. The bulk of claimant's medical

bills were paid by medicaide. The Board found "that claimant is the innocent victim of a crime and serious financial hardship is indicated. We further find that claimant has a 20% total disability, \$2,500, payable @ \$65 per month, beginning November 1, 1970. We also find that claimant was temporarily totally disabled from the date of the crime until November 1, 1970, 9.5 months @ \$86 for a total of \$817. Award \$2,000 of permanent total disability, \$817 for lost time and \$18 for unreimbursed medical expenses for a total of \$3,335. Emergency award of \$500 previously paid to claimant will be deducted from the lump sum award of \$835."

*Claim #38-P-70

Claimant, female, 19, was stabbed in the chest and right arm through the window of her car by an unknown assailant who had stopped claimant under pretense. Our investigation revealed that claimant sustained a serious stab wound to her left upper lung and a lobectomy was required. She also received a laceration to her arm and a "Z" shaped laceration to her upper chest. Claimant has since returned to work at no diminution in earnings. The bulk of claimant's medical bills were reimbursed by insurance except for \$72.00 which remained unpaid.

The Board found, "claimant to be the innocent victim of a crime and to meet all the necessary criteria for the following award by this Board. We further find that claimant's average weekly wage was \$84.00 at the time of the incident and that she incurred six weeks lost time as a result of the injury. We also find that one of the ultimate results of claimant's injuries are several unsightly scars.

Award: \$72.00 for unreimbursed medical bills, \$330.00 for lost time, 6 weeks at \$55 per week and \$1,000.00 for disfigurement, 40 weeks at \$25 per week for a total of \$1,402.00, all subject to the further order of this Board."

Claim #40-D-70

Claimants are three infant children whose father was killed by a car in Snow Hill which ran off the road and struck and killed the father as he was eating lunch in a restaurant. The driver of the car was tried and convicted of manslaughter by automobile. The Commissioner determined at the original hearing that manslaughter by automobile is by definition an unintentional homicide, and accordingly, was not covered by our statute, Section 2(c) of Article 26A of the Maryland Annotated Code.

The Board found "We believe that the language of Section 2(c) of our statute which states that no act involving the operation of a motor vehicle shall constitute a crime for the purposes of this Article unless the injuries were intentionally inflicted through the use of the vehicle, precludes the claimants from an award under our statute in the instant set of facts."

The Commissioner's decision was, therefore, confirmed by the full Board.

Claim #41-P-70

Claim filed by mother on behalf of her 19 year old son who was assaulted on a parking lot in Salisbury by assailant who accused claimant of making fun of his pool game. Son asserted that he worked part-time at his father's auto body shop. However, he was unable to verify this with business or tax records. Claimant failed to submit a financial affidavit for herself and her husband.

This Board found that claimant failed to cooperate fully with it and accordingly, the claim was denied.

Claim #44-D-70

Claimant, female, age 65, is the widow of a man who died of arteriosclerosis heart disease during a robbery of his store in Baltimore, Maryland. The examining pathologist was of the opinion that the stress of the robbery played a significant role in the demise of the deceased. The Board found, "assuming without deciding that there was a causal connection between the crime and the deceased's death, there is no showing, in our opinion, that the widow will suffer a serious financial hardship at this time if an award is not made to her. Section 12(f) of Article 26A of the Maryland Annotated Code requires that the claimant must suffer a serious financial hardship to be eligible for an award. Accordingly, the claim is disallowed. The Board reserved the right to reopen and reinvestigate this claim and if warranted from the facts then existing, to issue a new order based upon a change in the claimant's financial condition."

Claim #56-D-70

Claimant is the widow of a man who died as a result of a fall from a building in Baltimore. Claimant alleged on her claim form that claimant was beaten to death. Claimant was not present at the time of the alleged crime and had no knowledge of anyone who witnessed the incident. Our investigation revealed that claimant was a narcotics user (heroin) and had recently been released from a state hospital where he had undergone psychiatric examination. Claimant was seen by a witness to fall from a window of the third floor of a house known locally as a "shooting parlor". The nurse on duty at the hospital in the emergency room stated to our Investigator that claimant was in a narcotic coma and had two fresh needle marks in his arm when he arrived by ambulance. The hospital records, medical examiner's records and police records are also in accord on this point. The police were unable to find any indication of foul play.

The Board found "no evidence that the deceased was harmed by anyone other than himself. The claim was, therefore, denied."

*Claim #62-D-70

Claim is filed by grandfather on behalf of his four minor grandchildren, ages 2, 3, 9 and 10. The children's father was shot and killed on April 27, 1969 in Elkton, Maryland. His assailant was arrested and found guilty

of manslaughter. The Board found "deceased to have been the innocent victim of a crime and serious financial hardship is determined. Award: \$147.60 for unreimbursed funeral bill and \$1,527.00 for 15 monthly awards @ \$101.80 per month making a total of \$1,674.60, and beginning August 1, 1970, \$101.80 per month. However, in no event may the total of all payments made to claimants exceed the sum of \$27,500.00. The Board reserves the right to reopen and reinvestigate this claim and if warranted from the facts then existing to issue a new order based upon a change in the claimant's financial condition."

Claim #63-P-70

The claimant is a 43 year old female who was injured in a bar where she was struck by another and knocked to the floor striking her head on a table base. At the time of the incident she was receiving public assistance from the Department of Social Services and was treated pursuant to a medical care card. There are not any out-of-pocket losses and no lost wages. The Board found, "the statutory minimum requirements are not met, this claim is hereby denied subject to the Criminal Injuries Compensation Law of the State of Maryland."

Claim #64-P-70

Claimant, male, 39, was shot in the chest by his wife's uncle in Anne Arundel County. The assailant was found guilty and given a six year sentence. Claimant's medical bills were paid in full by insurance and he also received \$55 per week from insurance for lost time during his convalescence. The claimant has since returned to work with no diminution in earnings.

Claimant's attorney, at the full Board hearing, asserted that his client had a permanent partial disability to the body as a whole of 10%, and should be compensated for same.

"This Board has repeatedly held that an anatomical disability without the showing of serious financial hardship; such as a loss of or diminution in earnings or an actual out-of-pocket loss, is not compensible under the statute.

The decision is, therefore, affirmed by the full Board."

Claim #67-P-70

Claimant, female, 23, was injured as a result of a sudden stop of a Baltimore Transit bus resulting in her falling to the floor. The Board did not find the commission of a crime as a direct and proximate cause of the injury complained of nor did the Commission find that a timely report was made to the police as required by the statute.

The claimant took an appeal to the full Board and was represented by counsel at the hearing who presented argument on her behalf.

The full Board found that the claimant has not met the statutory requirements. The Commissioner's decision was, therefore, affirmed."

*Claim #68-D-70

This claim is filed by the widow of a man who was stabbed to death and robbed on a public street in Baltimore by an unknown assailant. The Board found "claimant to be the innocent victim of a crime and serious financial hardship is determined. Award: \$245 for unreimbursed funeral expenses, plus \$2,142.40 for eight monthly awards at \$269.80 per month, and beginning December 1, 1970, \$269.60 per month. However, in no event may the total of all payments made to claimant exceed the sum of \$27,500. The Board reserves the right to reopen and reinvestigate this claim and if warranted from the facts then existing, to issue a new order based upon a change in the claimant's financial condition."

Claim #70-P-70

Claimant, male, 59, suffered a broken arm during an altercation in Salisbury. Assailant tried and found not guilty. Claimant failed to file an Affidavit of Financial Resources with this Board. He also failed to keep two appointments with our Investigator. The Board found "that claimant has failed to cooperate with this Board and accordingly, this claim is denied for lack of cooperation."

*Claim #71-D-70

Claimant is the widow of a man who was stabbed to death in Baltimore. Assailant tried, found guilty and given 20 years. The Board found claimant to be the innocent victim of crime and serious financial hardship is determined. Claimant received \$262 per month from the Department of Social Services until March 1, 1970 when she received her Social Security award. Award: \$27,500 payable at a rate of \$301 per month, beginning March 1, 1970, less Social Security Survivor's Benefits during the continuation of financial hardship, all subject to further order of this Commission. Lump sum award \$2,423.70, for nine (9) monthly awards and beginning December 1, 1970 \$269.30 per month. This Board reserves the right to reopen and reinvestigate this claim and if warranted from the facts then existing, to issue a new order based upon a change in the claimant's financial condition."

Claim #72-D-70

Claimant is the widow of a man who was stabbed to death on a parking lot in Edgewood, Maryland. Our investigation reveals that the deceased and the alleged assailant were drinking together at a tavern in Harford County. An argument started and the decedent and the alleged assailant exchanged blows. They were separated by the bartender and the alleged assailant was told to leave. The decedent went outside after the alleged assailant and the fight continued. After a short period of time the decedent went back into the bar and came out again along with another companion. The companion had a knife with him. The decedent apparently was unarmed. Both men approached the alleged assailant and in the ensuing scuffle the decedent was stabbed to death. "The Board found, it is our

opinion that the decedent willingly left the tavern, not once but twice, for the purpose of doing bodily harm to the alleged assailant. We believe that the victim had placed himself in the position of contributing to the infliction of injuries resulting in his death. The claim is, therefore, disallowed."

Claim #74-P-70

Claimant, male, age 55, was assaulted and robbed of approximately \$3,500 in U. S. Currency on a public street in Baltimore. Assailant was apprehended and trial pending. Claimant suffered minor facial lacerations. The Board found "Claimant to be the innocent victim of crime. We do not, however, find that claimant meets the minimum requirement of \$100 out of pocket expenses set forth in Section 7 of the statute. Claimant's out of pocket expenses total only \$52.50. Claim is, therefore, disallowed."

Claim #82-D-70

Claimant is the widow of a man who was shot and killed by an unknown assailant while operating his car on a public street in Baltimore. Victim was unemployed at the time of his death and claimant was and still is on Public Assistance. The Board found "that claimant has not incurred an out of pocket loss of at least \$100 as required by Section 7 of Article 26A of the Maryland Annotated Code. We further find that claimant was not dependent on the victim at the time of the crime and thereby suffers no loss of support as required by Section 12(f) of the statute. The claim is, therefore, denied."

*Claim #91-P-70

Claimant, male, 42 years old, was a passenger on a Metropolitan Transit Authority bus in Baltimore City when an unknown assailant shot out a window which resulted in flying glass striking the claimant's eye. He lost two weeks from work as a result of the crime, after which he returned to work at no diminution in earnings. The Board found "claimant to be the innocent victim of a crime and serious financial hardship is also determined. Award: \$110 for lost time, plus \$40 for unreimbursed medical expenses."

Claim #93-P-70

Claimant, male, 26, was shot in the ankle by an acquaintance in a bar in Baltimore. The criminal action was dismissed. Claimant failed to keep an appointment which was scheduled with our Investigator. Claimant's attorney was, thereafter, advised that it would be necessary for him to make the necessary arrangements. This Board has not had any communication from claimant or his attorney in over two months. Claim is dismissed for lack of cooperation.

*Claim #97-P-70

Claimant, female, 30, was assaulted while helping a girlfriend to move. Both the claimant and her friend were savagely beaten by the friend's exsuitor. The claimant suffered multiple fractures of her lateral and left lower ribs. The Board found "claimant to be innocent victim of a crime and serious financial hardship is indicated. Award: \$192.15 for unreimbursed medicals and \$385 for lost time for a total award of \$577.15."

*Claim #98-P-70

Claimant, female, 61, was shot in her left hip and stomach in her grocery store in Baltimore by a robber. Claimant in turn shot and killed her assailant. Claimant's store had been held-up on seven prior occasions. The bulk of claimant's medical bills were paid by insurance. Claimant's store was closed on the date of incident and was later sold for \$1,800, all of which has since been expended for living expenses. Claimant is now employed as a part-time saleslady and earns \$32 per week in a department store. We find that claimant is the innocent victim of a crime and that serious financial hardship is indicated. We also find that claimant has a 25% permanent partial disability to her body as a whole, \$3,125.00, as a result of the incident. Award: \$135 for unreimbursed medical expenses, \$2,678.25 for lost time and \$107.50 per month for 25% permanent partial disability to the body as a whole, beginning April 1, 1970 up to \$3,125.00. Claimant will receive \$1,102.50 for 11 monthly awards retroactively to March 1, 1971, whereupon she will receive \$107.50 per month for the balance of the award. A total award of \$3,935.25 is granted.

*Claim #101-P-70

Claimant, male, 60, was shot in the right ankle during the course of a hold-up of a tavern in Baltimore by an unknown assailant. Claimant returned to work after one week at no diminution in earnings. The Board found, "claimant to be the innocent victim of crime and serious financial hardship is indicated. Award: \$126.65 for unreimbursed medical expenses and \$55 for lost time for a total of \$181.65."

*Claim #103-P-70

Claimant, male, 65, was attacked on a public highway in Anne Arundel County and severely beaten about the face and head. The Board's investigation reveals that claimant presently suffers from sudden episodes of loss of muscle tone in his lower extremities which causes him to fall, frequently, and a post-traumatic syndrome characterized by depressive reaction, hypertension and post-traumatic encephalopathy. Claimant has not worked since the incident and the medical prognosis indicates that claimant will never again be employable.

The Board found "claimant to be an innocent victim of a crime and that a substantial financial hardship will exist if an award is not made and that, as a direct and proximate result of the criminal assault, the claimant was permanently and totally disabled. We further find that claimant is entitled to compensation for total disability regardless of his age at the time of the incident.

Claimant is presently receiving Social Security benefits which were raised on February 1, 1970 from \$91.00 to \$103.60. Award: \$166.14 per month from June 10, 1969 to February 1, 1970 and thereafter, \$153.43 per month, not to exceed the sum of \$45,000.00 in the aggregate during the continued life of the claimant and continued existence of financial hardship, all subject to further order of this Commission. Six and two-thirds monthly awards of \$166.14 and 15 monthly awards at \$153.54 will be retroactive and a lump sum to May 1, 1971 less attorney's fee and, thereafter, the regular monthly award less Social Security, or \$153.54."

Claim #104-D-70

Claim is filed by the widow of a man who was killed while driving his car on a public highway in Maryland by another motorist who struck the deceased's car in the rear. Our statute, Article 26A of the Maryland Annotated Code, in Section 2(c) states that no act involving the operation of a motor vehicle which results in injury shall constitute a crime for the purposes of this Article unless the injuries were intentionally inflicted through the use of a vehicle. Manslaughter by automobile is by definition an unintended homicide resulting from the operation of a motor vehicle. It is our opinion that manslaughter by automobile is not a crime that is covered by the statute. The claim was, therefore, denied.

*Claim #109-P-70

Claimant, male, 42, was the victim of a vicious beating and robbery in Ocean City, Maryland. Our investigation reveals that claimant sustained multiple face and head lacerations, the loss of four teeth, a fractured nose, and multiple rib fractures. Claimant has been hospitalized several times as a result of the incident. The time lost from work during his initial hospitalization was reimbursed by sick leave. However, claimant lost seven weeks time as a result of a subsequent hospitalization. A substantial portion of claimant's medical bills were reimbursed by insurance. Claimant returned to work with a resulting substantial diminution in earnings.

The Board found "that claimant was an innocent victim of a crime and meets all the necessary criteria for an award under the statute. We also find that claimant has a 10% permanent partial disability to his body as a whole. We further find claimant was not reimbursed for seven weeks lost time as a result of his injury.

Claimant also submitted an estimated dental bill to this Board for \$1,250 for future dental work, for the loss of teeth in this incident. We are not at this time ruling on the reasonableness of the estimated dental bill. We shall, however, reserve our opinion and consider this matter when the claimant has actually incurred said treatment.

Award: \$1,250 for 10% permanent partial disability to the body as a whole, plus \$256.00 for unreimbursed medical bills and \$530.25 for lost time, 7 weeks @ \$75.75 per week, for a total of \$2,036.25, payable in a lump sum, less attorney's fee, all subject to the further order of this Commission.

Claim #115-D-70

Claimant is the widow of a man who was shot to death in Baltimore. Although legally married, claimant and victim have lived separate and apart since July 1967. Our investigation revealed that claimant was not actually dependent upon victim and failed to meet this requisite, and the claim was denied pursuant to Section 5(a)(3) of Article 26A of the Maryland Annotated Code. Our investigation also revealed that claimant was receiving Social Security benefits as a result of this incident which said benefits would and do far exceed any benefits allowable by this Commission. We would, therefore, be constrained to deny this claim by virtue of Section 12(d) of this Act. This Board reserves the right to reopen and reinvestigate this claim and if warranted from the facts then existing, to issue a new order based upon a change in the claimant's financial condition.

Claim #129-P-70

Claimant, male, 27, was shot by an employee of a bar in Baltimore City. The bar employee was fighting with another patron when the employee fired at the other patron and the bullet struck the claimant. The bulk of the claimant's medical expenses were paid by insurance. He also received \$85 per week in sick pay from his company while he was off from work and has now returned to work with no diminution in earnings. The Board found that the claim did not meet the minimum requirement for an award under the statute. Section 7 of Article 26A of the Annotated Code of Maryland. It further found that claimant did not have a serious financial hardship as required by Section 12(f) of the statute in view of the fact that he did not have a diminution in his earnings. The claim was, therefore, denied.

Claim #132-P-70

Claimant, male, 27, was shot in an argument following a minor accident in Anne Arundel County. Claimant was unemployed at the time of the incident, and all his medical and hospital bills were paid by the Maryland State Medical Assistance and Rehabilitation Programs. Our investigation reveals that claimant failed to cooperate with the police in the investigation of the incident. Claimant admitted knowing the identity of his alleged assailant but refused to disclose his name and stated that he would handle the situation and get even with the assailant. The Board found that claimant did not fully cooperate with the police, Section 12(a) of Article 26A of the Maryland Annotated Code, and the claim was denied.

The claimant took appeal to the full board. The full Board found that there is no coverage under the statute for the claimant for the following reasons: (1) Lack of cooperation as set forth in Section 12(a) of Article 26A of the Maryland Annotated Code by the claimant which is documented in the police records involving the incident. (2) All the claimants medical bills have been paid by the State and, consequently, they are not an out-of-pocket loss to the claimant. Together with the fact that the claimant was unemployed at the time of the incident and consequently, had no wage loss

because of the incident. It follows, therefore, that the claimant does not have a serious financial hardship as required by Section 12(f) of the statute for an award.

Accordingly, the decision on review was affirmed by the full Board.

*Claim #133-P-70

Claimant, female, 18, was shot in the head while sitting on her front steps in Baltimore by a stray bullet, that was fired by someone who was fighting across the street. Our investigation reveals that all claimant's medical bills were paid by medicaid and that claimant's average weekly wage was \$49.00 at the time of the incident. The Board found that claimant was an innocent victim of a crime and that she met all the necessary statutory criteria for an award. It also found that claimant sustained a 20% permanent partial disability to her right eye, and that claimant lost 35 weeks from work as a result of this incident.

Award: \$1,143.10 for 35 weeks lost time, plus \$1,000.00 for 20% permanent partial disability of the right eye, for a total award of \$2,143.10, less attorney's fee, payable in a lump sum. All subject to the further order of this Board.

*Claim #134-P-70

Claimant, female, 48, was beaten on the head with a hammer by a burglar in Baltimore. The Board's independent medical examination revealed that the claimant lost a considerable amount of her mental capacity as a result of the injury.

The Board found that the claimant was the innocent victim of a crime and that serious financial hardship was indicated. It further found that the claimant has a 45% permanent partial disability to the body as a whole. It also found that the claimant lost ten weeks from her employment as a result of her injury.

Award: \$5,625.00, 225 weeks at \$25.00 per week for a 45% permanent partial disability, starting at December 1, 1970 payable at the rate of \$107.50 per month, plus \$75.00 for unreimbursed medical expenses and \$570.00 for lost time for a total award of \$6,270.00. The Board reserved the right to reopen and reinvestigate this claim and if warranted from the facts then existing, to issue a new order based upon a change in the claimant's financial condition.

*Claim #135-D-70

Claimant, 44, is the mother of a victim, 27, who was shot to death in Baltimore. The claimant filed a claim on behalf of the victim's two children, 7 and 9. The victim was unemployed and receiving Public Assistance at the time of the incident. The victim and her children were living with the claimant and her sister who were also receiving Public Assistance. Claimant had \$330 in unreimbursed funeral expenses.

It was determined by the Board that the deceased was an innocent victim of a crime and that claimant was eligible for an award for the unreimbursed funeral expense of \$330.00.

Claimant took an Appeal to the full Board and the claimant appeared at the hearing represented by counsel. It was asserted by the claimant that the Board's failure to make a death award to claimant on behalf of the victim's children was discriminatory towards welfare recipients, and that the children of a welfare recipient who was killed as a result of the crime should be entitled to an award by the Board because not to do so would violate the legislative intent of the statute.

The full Board found, "We are unable to disregard Section 12(f) of the statute and we do not feel that this Section is irrelevant. We believe that this Section requires that the Board shall deny an award where the claimant cannot show that he has a serious financial hardship as a result of the crime. In the case at hand, the claimant and the victim's children were never dependent upon the victim for their support. The victim did not support herself and was dependent upon the State for her maintenance and support. The claimant and the victim's children were and still remain dependents of the State.

The decision is, therefore, affirmed by the full Board."

Claim #138-P-70

Claimant, female, 56, was assaulted and beaten by her step-daughter's husband. She incurred multiple fractures to the right side of her face as a result of the beating. We find that claimant is excluded from receiving an award under the statute, Section 2(d)(1) of Article 26A of the Maryland Annotated Code as she is related to her assailant within the third degree of affinity. Accordingly, the claim was denied.

*Claim #140-D-70

Claimant is the widow of a man who was shot and killed on a public street in Baltimore by an unknown assailant. This Board granted claimant an emergency award of \$500. It found deceased to be the innocent victim of a crime and serious financial hardship was determined. Award: \$348 for unreimbursed funeral expenses and \$1530.20 for seven monthly awards, less \$500 emergency award and, beginning February 1, 1971, \$218.60. However, in no event may the total of all payments made to claimant exceed the sum of \$27,500. This Board reserved the right to reopen and reinvestigate this claim and if warranted from the facts then existing, to issue a new order based upon a change in the claimant's financial condition.

*Claim #141-D-70

Claim was filed by the ex-wife of a man who was shot and killed in Prince George's County, on behalf of their son, age 6. Our investigation revealed that the decedent was killed during a fight that started when the decedent's friend was struck with a pistol in a bar by the assailant, who in turn ran out of the bar to his car. The decedent and several other men started to pursue the assailant when the assailant turned and fired at them, fatally striking the decedent.

The Board found that serious financial hardship was indicated. It did not find, however, that the decedent was completely without fault. The record indicates that he started to pursue and attack the assailant without first ascertaining the true nature of the dispute. We believe this conduct contributed to his fatal injury and accordingly, our award of \$27,500.00 is reduced by 50% for provocation to \$13,750. Award: \$1,840.00 for 10 monthly awards and beginning May 1, 1971, \$184.00 per month. However, in no event may the total of all payments to claimant exceed the sum of \$13,750.00. No award will be made for the funeral bill because the mother of the victim was not totally dependent upon the deceased and is not eligible for an award under the statute. We reserve the right to reopen and reinvestigate this claim and if warranted by the facts then existing, to issue a new order based upon a change in the claimant's financial condition.

Claim #143-P-70

Claimant, male, 31, was stabbed in the stomach in an apartment in Baltimore by his cousin's son during a family argument. Claimant was unemployed at the time of the incident and medicaid paid all of his medical and hospital bills.

Assuming, without deciding, that claimant is an innocent victim of a crime, we find that no serious financial hardship has been demonstrated by the claimant as required for an award pursuant to Section 12(f) of Article 26A of the Maryland Annotated Code. Claimant incurred no loss of earnings, medical expenses or any other expenses as a result of this incident. Claim was, therefore, denied.

Claim #146-P-70

Claimant, male, 51, was sitting in his car on a public street in Baltimore, Maryland, waiting for his wife. Claimant was confronted by his assailant who beat him about the head for no apparent reason. The Board found, "Assuming without deciding that claimant was the innocent victim of a crime, and meets the other statutory requirements, in light of the savings after exclusion of an amount equal to one year's earnings, even if part of same is attributable to the wife, this Commissioner finds that the claimant will not suffer a serious financial hardship if an award is not made. The claim is, therefore, denied."

*Claim #147-P-70

Claimant, male, 33, was assaulted and struck by a baseball bat in Prince George's County by three unknown assailants. He sustained four fractures to his right wrist and a cut over his right eye. The bulk of claimant's medical expenses were paid by insurance. He has returned to work with no diminution in earnings. We find claimant to be the innocent victim of a crime and serious financial hardship is determined.

Award: \$19.50 for unreimbursed medical expenses plus \$481.50 for lost time, for a total award of \$501.00.

Claim #148-D-70

Claimant is the widow of a man who was found shot to death in an automobile in Baltimore. Our investigation revealed that 234 capsules containing a white powder were found in the glove compartment of his automobile which were determined by the U. S. Custom Chemist to contain methadone, a synthetic prohibited narcotic drug. Our investigation also revealed that the deceased was under two indictments for possession of narcotics and was out on bail on both charges at the time of his demise. The Board found that the conduct of the deceased attributed to his death. Section 12(a) of Article 26A of the Maryland Annotated Code. This claim was, therefore, denied.

*Claim #151-P-70

Claimant, male, 32, was shot in the pelvis and left hip by an assailant on a public street in Baltimore. Assailant was apprehended, tried and found guilty. Claimant was granted an emergency award of \$480.00 by this Board at the inception of the claim. The Board found that claimant was an innocent victim of a crime and serious financial hardship was indicated. It further found that the claimant had a 10% permanent partial disability of the left leg, and a resulting diminution in earnings therefrom. Award: \$205.65 for unreimbursed medicals, \$165.00 for 3 weeks lost time and \$625.00 (25 weeks at \$25.00 per week) for 10% permanent partial disability, payable in a lump sum for a total of \$995.65, less emergency award of \$480.00.

Claim #152-P-70

Claimant, female, 39, was assaulted by several unknown assailants as she was in the process of hailing a taxicab in Baltimore. Claimant lost two days from work and her medical expenses were paid by insurance. The Board found that claimant had not met the minimum requirements for a claim as required by Section 7 of Article 26A of the Maryland Annotated Code. Accordingly, the claim was denied.

*Claim #154-P-70

Claimant, male, 52, was struck to the ground by an assailant on a public street in Baltimore. Claimant fractured his skull on the curb. Claimant filed a civil suit against the assailant and was awarded \$25,000.00 judgment. Claimant was not able to collect anything against the judgment. The bulk of claimant's medical bills were paid by insurance and he had returned to work at no diminution in earnings. The Board found claimant to be the innocent victim of a crime and that serious financial hardship was determined. Award: \$33.50 for unreimbursed medical expenses, plus \$125.90 for lost time for a total award of \$249.50, less attorney's fee.

*Claim #155-P-70

Claimant, male, 53, sustained a broken arm and numerous lacerations to his head when four teenagers entered his apartment in Baltimore and clubbed and robbed claimant. Our investigation revealed that claimant returned to work and that his insurance paid for all his medical bills. The Board found that claimant was an innocent victim of a crime and met all the necessary statutory criteria for the following award. It also found that claimant's average weekly wage was \$125.00 at the time of the incident and that he sustained twenty unreimbursed weeks of lost time. It further found that claimant had a permanent partial disability of 30% to his left arm. Award: \$1,457.14 for lost time, plus \$3,150 for permanent partial disability of 30% of his left arm, beginning June 1, 1970 and payable at \$107.50 per month. Total award \$4,607.14 less prior emergency award of \$100.00 for a net award of 4,507.14, less attorney's fee. All subject to the further order of this Board.

Claim #158-P-70

Claim filed by father on behalf of his 8 year old son who was kicked in the groin by a young girl during school recess. No report of the incident was made to the police. All medical bills were paid by insurance. The Board found that claimant was ineligible for an award by this Board as no police report was made within 48 hours of the crime. Section 12 of Article 26A of the Maryland Annotated Code. If further found that claimant did not have a serious financial hardship as required by Section 12(f) of the statute. The claim was, therefore, denied.

*Claim #157-P-70

Claimant, female, age 35, was attacked by an unknown assailant on a hospital parking lot in Baltimore. Claimant alleged that as a result of the incident her emotional condition has been aggravated. Claimant also alleged that she chipped several of her teeth when she bit her assailant defending herself.

Our investigation revealed and claimant admitted that she has had a past history of emotional disturbances. This Board had claimant examined by a psychiatrist at its own expense to determine if there was any causal connection between the claimant's mental condition and the incident.

The Board found that the claimant was an innocent victim of a crime. It also found that there was a causal connection between the incident and the claimant's emotional condition. It further found that several of the claimant's teeth were injured as a result of the incident and that \$310.00 was a fair and reasonable fee to repair said teeth. It also found that the claimant has unreimbursed medical and pharmaceutical expenses of \$38.75 and that all the necessary criteria for the payment of these bills has been met.

Award: \$348.75 for unreimbursed medical and dental expenses, less attorney's fee.

Claim #159-P-70

Claimant, male, 66, was assaulted and robbed in an alley in Baltimore by an unknown assailant. He suffered the loss of his right eye along with bruises and contusions. Claimant has been unemployed for six years. He is currently receiving Social Security and Welfare payments. All his medical bills were paid by Medicare. The Board found claimant to be the innocent victim of a crime. It did not, however, find claimant to be suffering a serious financial hardship as required by Section 12(f) of the statute. It further found that claimant does not meet the minimum requirements for an award in that his out of pocket expenses were not over \$100. Claim was, therefore, denied.

*Claim #160-P-70

Claimant, male, 82, is a self-employed farmer, and his wife were assaulted and severely beaten by an unknown assailant at their home in Charles County. This is a companion case to Claim #161-P-70 filed on behalf of the claimant's wife.

The assailant professed to be having car trouble and asked to use the claimant's telephone. After gaining entrance to the claimant's home, assailant attacked claimant and his wife.

Our Board's investigation revealed that the claimant sustained multiple facial contusions, a laceration to his right eye cornea and a fracture of the orbital rim and also a fracture to his right hand. Our investigation, which included an examination of the claimant by our own doctor, revealed that the claimant has developed a cataract in his right eye as a result of the injury.

The Board found the claimant to be an innocent victim of a crime and to meet all the necessary statutory criteria to an award. It also found that the claimant has a 100% disability to his right eye as a result of the crime. It also found that claimant lost 13 weeks from work as a result of the injuries and that his average weekly wage was \$51.42. Award: \$138.00 for unreimbursed medical expenses, \$468.00 lost time, 13 weeks at \$36.00, and \$147.40 per month beginning May 1, 1970. Claimant will receive 13 retroactive monthly awards in the amount of \$1,916.20 in a lump sum payment and beginning June 1, 1971, he is to receive \$147.40 per month. However, in no event may the total of all payments to the claimant exceed the sum of \$9,758.76. All subject to the further order of this Commission.

*Claim #161-P-70

Claimant, female, 71, housewife, and her husband were assaulted by an unknown assailant at their home in Charles County. The assailant, late at night, came to claimant's home and professed to be having car trouble and asked the use of claimant's telephone. After gaining entrance to the claimant's house, assailant attacked claimant and her husband. This is a companion case to Claim #160-P-70, filed on behalf of claimant's husband.

Our Board's investigation revealed that the claimant suffered multiple contusions and abrasions of the head, arm and back. The bulk of claimant's medical and hospital bills were paid by medicare with the exception of \$230.50.

The Board found that claimant was the innocent victim of a crime and met all the necessary statutory criteria for the following award. Award: \$230.50 for unreimbursed medical expenses, less attorney's fee.

*Claim #163-P-70

Claimant, male, 30, was shot in the mouth, right wrist and right thigh by the driver of a car that was involved in a minor accident with claimant's car. Claimant alleged that future plastic surgery will be necessary and the anticipated cost of said surgery is \$350.00. The Board found claimant to be an innocent victim of a crime and serious financial hardship was determined. Award: \$728.30 for unreimbursed medical expenses and \$845.04 for lost time for a total of \$1,573.43, less attorney's fee. No award for anticipated medicals was made. If at a later time we are presented with actual bills, we will reopen and reconsider the claim.

Claim #165-P-70

Claimant, male, 44, was assaulted in his home in Baltimore by three acquaintances for reasons undisclosed to this Board. Claimant was reimbursed by insurance for his lost time and for the bulk of his medical expenses with the exception of \$87.10. He returned to work with no diminution in earnings. The Board found, "Assuming, without deciding, that claimant is the innocent victim of crime, we find that claimant does not meet the minimum statutory requirements for an allowable claim with this Board as he has not incurred an out of pocket expense of \$100. See Section 7 of Article 26A of the Maryland Annotated Code." The claim was, therefore, denied.

Claim #166-D-70

Claimant is the widow of a man who was killed while working with a co-worker. Claimant filed a claim with the Workmen's Compensation Commission and was granted an award of \$4,500. Our investigation revealed that the incident started when the deceased patted the alleged assailant on the rear end. The assailant in turn pushed the deceased, who then slapped the assailant, who then struck the deceased on the skull with a refrigerator handle.

The Board found "that the deceased was not an innocent victim of a crime as required by the statute for an award. Assuming, without deciding that the deceased was an innocent victim of a crime and we made an award, our award would be reduced pursuant to Section 12(d)(2) of the statute, by the award of the Workmen's Compensation Commission. Since our awards are based upon the same schedule of benefits as those used by

the Workmen's Compensation Commission, our award would in effect cancel out the Workmen's Compensation Award." Accordingly, this claim was denied.

Claim #167-P-70

Claimant, male, 27, was shot in the chest by the doorman of a tavern in Baltimore during an altercation between another person and the doorman. The Board found, "The bulk of claimant's medical bills were paid by insurance and he is now working with no diminution in earnings. Assuming, without deciding, that claimant is the innocent victim of a crime, we find that claimant does not have a serious financial hardship as set forth in Section 12(f) of the statute." The claim was, therefore, denied.

*Claim #168-D-70

Claimant is the widow of a man found shot to death in his place of business in Baltimore by an unknown assailant. Claimant was unable to keep the business open, and after claimant applied the assets to the outstanding debts, nothing of substance remained. The Board found that "the claimant is the innocent victim of a crime and all statutory requirements necessary for an award have been met. Award: \$2,855.04 for 12 monthly awards at \$237.92 per month and beginning January 1, 1970, \$237.92. However, in no event may the total of all payments made to claimant exceed the sum of \$27,500. This Board reserved the right to reopen and reinvestigate this claim and if warranted from the facts then existing, to issue a new order based upon a change in the claimant's financial condition."

Claim #169-D-70

Claimant is the wife of a man, 30 years old, who was shot to death in a tavern in Pasadena, Maryland by the tavern owner. Our investigation revealed that the deceased became embroiled in an argument with the owner and threw his beer at the owner. He then attacked the owner who in turn shot the deceased. The Board found provocation on the part of the deceased and that he was not an innocent victim of a crime as required by the statute for an award. Accordingly, this claim was denied.

*Claim #170-P-70

Claimant, male, 20, was shot in the chest and left arm by his paramour's former boyfriend in their apartment in Baltimore.

Our Board's investigation revealed that all claimant's medical bills were paid by insurance, that claimant lost 14 weeks from work, that claimant's weekly wage was \$98.04, and that claimant has since returned to work at no diminution in earnings.

The Board found claimant to be the innocent victim of a crime and that he met all the necessary criteria for the following award. Award: \$852.88 for 14 weeks lost time, (\$55.00 per week for six week, \$330.00, plus \$65.36 per week for 8 weeks \$522.88 for a total of \$852.88), less attorney's fee.

*Claim #172-D-70

Claimant is the widow of a man who was shot and killed in a trailer in Harford County. His assailant was apprehended, tried and found guilty of 2nd degree murder. The Board found that the decedent was the innocent victim of a crime and serious financial hardship would exist if an award was not made. Award: \$2,200.00 for 11 monthly awards and beginning May 1, 1971 \$200.00 per month. However, in no event shall the total of all payments to the claimant exceed the sum of \$27,500. This Board reserved the right to reopen and reinvestigate this claim and if warranted by the facts then existing, to issue a new order based upon a change in the claimant's financial condition.

*Claim #175-P-70

Claimant, male, 19, was assaulted by a group of unknown assailants while attending the flower mart in Baltimore. He sustained several broken ribs and a fractured nose. The Board found claimant to be the innocent victim of a crime and serious financial hardship was determined. Award \$200 for lost time, 4 weeks @ \$50.00, and \$410.00 for unreimbursed doctor bills for a total award of \$610.00, less attorney's fee.

Claim #178-P-70

Claimant, male, 34, incurred bruises to his right shoulder, and left and right rib cage during a fight in Somerset County. Our investigation and the police records revealed that claimant and his alleged assailant had been drinking together and after a time became involved in a fist fight. The claimant was arrested and was found guilty by a local magistrate. An Appeal was taken by the claimant and the case as "stetted" by the State's Attorney of Somerset County because the alleged assailant was uncooperative and did not want to testify against the claimant. The Board found that the claimant is not an innocent victim of crime but in fact, to a large measure, responsible for the fight and injuries incurred therein. Accordingly, the claim was denied.

Claim #179-P-70

Claimant, male, 23, was shot in the left leg by the manager of a theatre in Hyattsville. Our investigation revealed that the claimant and his brother were involved in an argument with the theatre manager who ordered them off the theatre's parking lot. The claimant and his brother thereupon advanced towards the manager in a menacing manner. The manager in turn shot the claimant in the leg as he was jumping over a 3 ft. fence and running towards the manager. The Grand Jury refused to indict the manager. The Board found that the claimant's conduct contributed towards the infliction of his injury. Section 12(3) of Article 26A of the Maryland Annotated Code. Accordingly, the claim was denied.

*Claim #180-P-70

Claimant, male, 18, was shot in the face with a shotgun fired by unknown assailants on a public street in Baltimore. Our investigation revealed

and the Board found that the claimant had a 100% permanent total disability to his body as a whole due to the loss of sight in both eyes. Claimant's average weekly wage at the time of the incident was \$80.00 per week.

The Board further found the claimant to be the innocent victim of a crime and that he met all the necessary statutory criteria for the following award. Award: \$229.36 per month starting February 1st, 1970, however, in no event shall the total of all payments to the claimant exceed the sum of \$45,000.00. Claimant shall receive 17 retroactive monthly awards totalling \$3,899.12. All subject to the further order of this Board.

*Claim #181-P-70

This claim is filed by the mother, on behalf of her daughter, age 3, who was shot in the head by a juvenile offender from a passing car in Baltimore County. Our Board's investigation determined that the ultimate result of the child's injuries is an unsightly indented scar, approximately 1/16" to 1/32" in depth at its deepest point, $2\frac{1}{2}$ " to 3" long and ¾" wide at its widest point. The scar begins over the inside of the right eyebrow and extends to the right into the hair over the ear.

We further find that claimant was the innocent victim of a crime and that she meets all the necessary statutory criteria for an award.

Award: \$2,613.70 for unreimbursed medicals; \$1,125.00, for disfigurement, 75 weeks at \$15 per week, for a total award of \$3,738.70 payable to the claimant for the use and benefit of the victim, subject to be reopened if brain damage or other non-disfigurment disability results in which case this shall be deducted from a subsequent award, if any, less attorney's fee, all subject to the further order of this Commission and the Criminal Injuries Compensation Law of Maryland.

*Clair: #182-P-70

Claimant, male, 22, was shot in the left thigh by an unknown assailant on a public street in Baltimore. Claimant was granted an emergency award of \$500.00 by the Board at the outset of the claim. The bulk of his medical bills were paid by insurance. Claimant at the time of the original hearing had returned to work at no diminution in earnings. The claimant was found to be the innocent victim of a crime and serious financial hardship was indicated. The claimant was granted an award for unreimbursed medicals and for unreimbursed lost time, less his emergency award.

The claimant took an appeal to the full Board and asserted at the hearing that he had a permanent partial disability of 25% to his lower left extremity and that he should be compensated for the loss of his sick and vacation benefits, which he was forced to utilize during his period of incapacity. The claimant also took issue with our unreimbursed lost time computation of 20 weeks and he also disputed that he had a new claim for two pairs of shoe lifts.

The full Board stated, "We agree with claimant's computation of unreimbursed lost time and agree that said figure is 27 weeks and also agree that his unreimbursed expenses should include the foot lifts for a total medical expense of \$121.00. We do not agree, however, that claimant should be reimbursed for the loss of his sick and vacation days. Section 12(d) of the Act requires that this Board reduce our awards by any payments received or to be received as a result of the injury from any other public or private source. Claimant requested this Board to reimburse him for a loss that has not occurred. This Board refuses to speculate on future probabilities and reserve the right to reopen and reinvestigate this claim in the event that said probabilities do occur. This Board has also repeatedly held that an anatomical disability without the showing of a serious financial hardship, such as a loss of or diminution in earnings or an actual out of pocket expense, is not compensible under the statute.

The decision is, therefore, affirmed and modified in part by the full Board. Award: \$223.00 for unreimbursed medical expenses, \$2,020.71 for temporary total disability, for a total award of \$2,243.71, less \$500.00 emergency award for a net award of \$1,743.71, less attorney's fee."

*Claim #184-P-70

Claimant, male, 19, sustained 1st, 2nd and 3rd degree burns on his hands, arms and back during a fire which took place while claimant was asleep in a dwelling house in Baltimore. An emergency award of \$250.00 was made to claimant at the outset of the claim. Our investigation revealed that the fire was caused by an unknown arsonist. The Board found that "claimant is the innocent victim of a crime and that serious financial hardship is indicated. We also find that claimant lost nine weeks from work as a result of his injuries and that he suffered disfigurement as a result of his burns. Award: \$244.15 for unreimbursed medical bills, \$578.00 for lost time and \$625.00 for disfigurement, 25 weeks at \$25, for a total of \$1,447.15, less emergency award of \$250 for a net award of \$1,197.14, less attorney's fee."

*Claim #187-P-70

Claimant, female, 77, was assaulted on a public street in Baltimore by three unknown assailants who threw her to the ground and stole her purse. Claimant suffered a fractured right hip that required an open reduction operation. The bulk of claimant's medical bills were paid by insurance. The Board found claimant to be the innocent victim of a crime and serious financial hardship is determined. Award: \$1,740.20 for unreimbursed medical expenses.

*Claim #188-P-70

Claim is filed by the mother of a 16 year old boy who was struck in the mouth by several boys who demanded money from him in Frederick City. Our investigation determined that two of the victim's front teeth were broken. The Board found that the claimant had a serious financial hard-

ship and that all other statutory prerequisites had been met for an award. Award: \$301 for unreimbursed medical expenses.

Claim #189-P-70

Claimant, female, 28, was shot in the left hand by her paramour in an apartment in Baltimore. The paramour immediately, thereafter, committed suicide. The bulk of claimant's medical bills were paid by insurance in addition to which she received \$50 per week for lost time. Claimant returned to work with no diminution in earnings. The Board found that claimant was ineligible to receive an award from this Board. "Section 5(b) of Article 26A of the Maryland Annotated Code clearly excludes us from making an award for family crimes. Assuming, without deciding, that claimant was eligible to receive an award, we do not believe that she has a serious financial hardship as required by Section 12(f) of the statute. Claimant's out-of-pocket expenses are minimal and she suffered no diminution in earnings. Accordingly, therefore, the claim was denied."

The claimant took an appeal to the full Board. Claimant admitted that she was the paramour of the assailant prior to the time of the incident, but denied being his paramour on the date of the incident.

The full Board found "that since the testimony presented to this Board at the full Board hearing was inconsistent with other records in the file and with the claim form relative to the relationship of the claimant to the assailant, employment, income and the claimant's testimony lacked credibility, and that the award of the single Commissioner was supported by substantial evidence and is hereby affirmed."

Claim #191-P-70

Claimant, male, 22, was assaulted on a public street in Baltimore County by three young men. Our investigation revealed that claimant was unemployed at the time of the incident and residing at home with his parents.

The Board found that claimant's unpaid medical bills of \$27.00 did not meet the minimum allowable claim requirements as set forth in Section 7 of Article 26A of the Annotated Code of Maryland.

The claim was, therefore, denied.

*Claim #195-D-70

The claimant is the widow of a man, 44, who was shot and killed by an unknown assailant in a bar in Baltimore. Our investigation fails to reveal a motive for the crime. The Board found claimant to be an innocent victim of crime and to meet all the necessary statutory criteria for the following award.

"Award: \$750.00 for unreimbursed funeral expenses and \$1,806 for six monthly awards up to January 1971 and beginning January 1, 1971, \$301 per month. In no event may the total of all payments made to claim-

ant exceed the sum of \$27,500.00. This Board reserves the right to reopen and reinvestigate this claim and if warranted by the facts then existing, to issue a new order based upon a change in the claimant's financial condition."

*Claim #197-P-70

Claimant, male, 64, who was blind in his right eye from birth, was robbed and assaulted and had his left eye blinded on a public street and, as a result of the incident, is now totally blind. The Board found claimant to be the innocent victim of a crime and that serious financial hardship will exist if an award is not made. It further found that claimant is permanently and totally disabled under Maryland Law. Award: \$72.00 for unreimbursed medical expenses, \$239.81 for 4.5 months, inception date of Social Security: \$239.81 less \$70.40 Social Security, or \$140.41 per month for five months for a total lump sum award of \$2,010.20 less \$129.00, and \$140.41 per month beginning April 1, 1971 not to exceed the sum of \$45,000.00, all subject to the Criminal Injuries Compensation Law of Maryland and further order of this Commission.

Claim #199-D-70

Claimant is the widow of a retired District of Columbia police officer who was shot and killed assisting a store owner who was also killed during a robbery in Prince George's County. All medical and hospital bills were paid by insurance. Claimant is now receiving a pension of \$301 per month and has approximately \$20,000 in assets. We find claimant to be the innocent victim of a crime. We do not at this time, however, find that claimant has suffered a serious financial hardship as required by Section 12(f) of Article 26A of the Maryland Annotated Code in view of her assets. The claim is, therefore, denied. The Board reserves the right to reopen and reinvestigate this claim and if warranted from the facts then existing, to issue a new order based upon a change in the claimant's financial condition.

*Claim #202-P-70

Claimant, male, 20, was shot in the left hand by two unknown assailants while his car was stopped for a red light in Baltimore. Claimant received all his medical care at U. S. Government expense as his father is a member of the armed forces. Claimant was granted an emergency award of \$450.00 by this Board to support himself while he was taking therapy for his injury. We find claimant to be the innocent victim of a crime and serious financial hardship is determined. Award: \$1,238.80 for lost time, less \$450.00 emergency award for a net total of \$788.80.

*Claim #209-D-70

Claimant is the widow of a man who was robbed and beaten to death on a public street in Baltimore by an unknown assailant. Claimant was employed at the time of the incident and her earnings were contributed to the household budget. The Board found that claimant was the innocent victim of a crime. It further found that claimant was partially dependent upon the victim, and that she would incur a serious financial hardship as a result of the loss of this support. "Award: \$8,000.00 for a partial death award, payable beginning February 1, 1971 at \$143.19 per month. However, in no event may the total of all payments to claimant exceed the sum of \$8,000. We shall reserve the right to reopen and reinvestigate this claim and if warranted from the facts then existing, to issue a new order based upon a change in the claimant's financial condition."

*Claim #210-P-70

Claimant, male, 26, was struck in the face and neck by flying glass when several youths threw rocks at the bus claimant was riding in.

Our investigation revealed that claimant lost two weeks from work. However, she received sick benefits for the first week. Claimant had returned to work with no diminution in earnings.

The Board found that claimant was an innocent victim of a crime and that serious financial hardship was indicated. Award: \$55.00 for one week lost time and \$32.00 for prescriptions, for a total of \$87.00.

Claim #212-P-70

Claimant, male, 20, was standing in front of the alleged assailant who was sitting on the front steps of a house in Baltimore, when he was shot in the groin with a revolver held by the assailant. The assailant had been spinning the cylinder of the revolver and pulling the trigger. The Board found from our investigation that the revolver had discharged accidentally and hence, the claimant was not a victim of a crime and not eligible for compensation under the Criminal Injuries Compensation Act.

*Claim #215-P-70

Claimant, male, 44, was blinded in his right eye when he was struck in the face by an unknown assailant on a public street in Baltimore during a robbery attempt. Our investigation reveals that the claimant has undergone a cornea transplant and his sight is gradually returning.

The Board found "That claimant was an innocent victim of a crime and that he meets all the necessary criteria for the following award. We further find that his medical treatment is of a continuing nature and another operation is anticipated. It is not yet known what the nature and extent of the permanent disability, if any, is or whether it will cause a serious financial hardship.

Award: \$1,731.02 for unreimbursed medicals, plus \$61.53 for unreimbursed lost time, plus future medicals upon verification, all subject to the further order of this Board."

Claim #217-P-70

Claimant, male, 37, sustained multiple contusions and abrasions to his hip, knee and back on a public street in Baltimore as a result of being

struck by an automobile. Claimant alleges that he was thrown into the path of the automobile by two Indian males during the course of an altercation which started in a bar.

Our investigation revealed "that claimant ran into the left side of the automobile in the middle of the block as it was passing the bar. Our investigation further reveals that the claimant upon arrival at the hospital was in a highly intoxicated condition. He refused treatment at the hospital emergency room, and did not make a report to the police. Claimant did, however, give the police an accident report statement.

We find in the case at the bar that the claimant is not an innocent victim of a crime as required by the statute for an award. We further find that the claimant's contention that a crime took place is also without merit. The claim is, therefore, defied."

*Claim #224-P-70

Claimant, male, 38, was severely beaten in Baltimore County by two assailants and suffered a fractured nose as a result of the incident. Claimant has since returned to work at no diminution in earnings. The Board found claimant to be the innocent victim of a crime and serious financial hardship was indicated. Award: \$236.45 for unreimbursed expenses and \$10.71 for unreimbursed lost time for a total award of \$247.16.

Claim #218-P-70

Claimant, male, 49, was shot in the stomach by his brother-in-law's brother during a family argument at their apartment in Baltimore. Our investigation revealed that the claimant, his brother-in-law, and his brother were all members of the same household and resided in the same apartment at the time of the incident.

Claimant had returned to work at no diminution in earnings and he received \$279.00 from the Department of Social Services. We found that the claimant was ineligible to receive an award from this Board as this type of crime is specifically excluded by Section 2(d)(3) and 5(6)(b) of Article 26A of the Annotated Code of Maryland. These sections specifically exclude members of the family and/or household of persons who are responsible for the crime from becoming eligible to receive an award under our statute. The claim was, therefore, denied.

Claim #227-P-70

Claimant, male, 60, was struck with a pipe and suffered a broken hip as he investigated a noise at his rear door. Claimant was paid full salary, plus \$35 per week, during his time off from work and all his medical bills were reimbursed by insurance. Claimant had since returned to work with no diminution in earnings. We found claimant to be ineligible for an award under the statute, in that he does not have a serious financial hardship as required by Section 12(f) of the statute. Accordingly, this claim is denied.

Claim #229-P-70

Claimant, male, 19, was hit with a baseball bat on the left side of his head in an argument, on a ballfield in Baltimore. Our investigation revealed that all claimant's medical bills have been paid by medicaid and that he received disability benefits during his lost time and that the claimant had returned to work at no diminution in earnings.

We found claimant to be ineligible to receive an award as claimant never sustained the minimum loss as required by Section 7, nor suffered a serious financial hardship as required by Section 12(f) as a consequence of the injury. Accordingly, the claim was denied.

Claim #232-D-70

The claimant is the father of a 22 year old man who was shot and killed during a robbery on a public street in Baltimore. The claim is for funeral expenses which resulted from the incident.

Our Board's investigation determined that both claimant and his wife were employed and were not dependent upon the victim for support, and that the claimant received \$500.00 for an insurance policy and \$250.00 from Social Security and that there was a possibility of his receiving \$250.00 from the Veteran's Administration.

The claimant appeared at the full Board hearing with counsel and contended that the \$500.00 insurance policy should not be deducted or considered by this Board as the claimant was the beneficiary of the policy and also paid the premiums. Subsequent to the hearing, our Board's further investigation determined that the claimant would be entitled to the \$250.00 Veteran's Administration Funeral Benefit.

The full Board found "that the \$500.00 death insurance payment was a payment from a private source and as such is to be considered deductible from any award made pursuant to this statute. Assuming without deciding that the aforegoing insurance payment was not considered a payment from a private source, we find that the claimant does not have a serious financial hardship necessitating an award by this Board. The decision is, therefore, affirmed by the full Board."

*Claim #234-P-70

Claimant, female, age 72, sustained two gunshot wounds to her legs during an attempted robbery of her apartment in Baltimore. The Board found claimant to be the innocent victim of a crime and that all statutory prerequisites have been met. It further found claimant's average weekly wage to be \$20.00 per week. It also found that claimant incurred eighteen weeks lost time as a result of this incident.

Award: \$360.00 for lost time, 18 weeks at \$20.00 per week, and \$175.00 convalescent expenses, 7 weeks at \$25.00 per week, for a total of \$535.00.

*Claim #238-D-70

Claimant's wife was shot and killed while sitting talking to her mother on her back porch in Baltimore by a 14 year old youth. Both claimant and

his wife were employed prior to the incident. Claimant is a truck driver and earns \$85 per week. However, he is currently unemployed due to a job injury. The Board found "deceased was an innocent victim of a crime and that the unpaid funeral bill constituted a serious financial hardship on claimant. This Board, therefore, awards claimant \$750.00 towards the unpaid funeral bill."

*Claim #241-P-70

Claimant, male, 24, was inadvertently shot in the chest by a Baltimore City Policeman. Our investigation revealed that the claimant was hit by a stray bullet fired by the police at a third person, and that the claimant was in no way connected with the third person. The Board found "that claimant is an innocent victim of a crime and that all other statutory criteria has been met for an award. Award: \$410.51 for lost time, less attorney's fee."

*Claim #243-P-70

Claimant, female, 46, was assaulted and beaten around the left side of the face and head on a public street in Baltimore.

The bulk of claimant's medical bills were paid by insurance with the exception of \$61.00 and all her lost time was reimbursed by her union and employer. Our investigation revealed, however, that claimant has an unsightly scar on the bridge of her nose, approximately 1 inch in length.

The Board found that claimant was an innocent victim of a crime and meets all the necessary statutory criteria for the following award.

Award: \$61.00 for unreimbursed medical expenses; \$125.00 for disfigurement, 5 weeks at \$25.00 per week, for a total award of \$186.00, less attorney's fee.

*Claim #244-P-70

Claimant, male, 43, was stabbed in the lung and robbed by two unknown assailants on a public street near the Baltimore Municipal Stadium. Claimant returned to work at no diminution in earnings. The Board found claimant to be an innocent victim of a crime and serious financial hardship was indicated. Award: \$110.00 for lost time and \$645.80 for unreimbursed medical expenses for a total award of \$755.80.

*Claim #245-P-70

Claimant, male, 65, was pistol-whipped about the face and head by two unknown assailants on a public highway in Prince George's County. Claimant lost two weeks from work and has since returned to work at no diminution in earnings.

The Board found "the claimant to be an innocent victim of a crime and that he meets all the necessary statutory criteria for the following award.

Award: \$1,659.53 for unreimbursed medical expenses, and \$110.00 for two weeks lost time for a total award of \$1,769.53."

*Claim #246-D-70

Claimant is the widow of a man who was beaten to death on a public street in Baltimore by two unknown assailants. The Board found that both the claimant and her deceased husband were employed prior to the incident and they both contributed to the household expenses. It further found that claimant's husband was the innocent victim of a crime and that she met all the necessary statutory criteria for an award by this Board. It also found the deceased's average weekly wage was \$100 per week.

Award: \$9,000.00 for partial death award, payable at \$286.64 per month. Eight retroactive monthly awards will be paid in a lump sum, beginning June 1, 1971, \$286.64 will be payable monthly. Claimant will also receive \$51.28 for an unreimbursed hospital bill. However, in no event may the total of all payments to the claimant exceed the sum of \$9,000.00. This Board reserves the right to reopen and reinvestigate this claim and if warranted by the facts then existing, to issue a new order based upon a change in the claimant's financial condition.

*Claim #247-P-70

Claimant, male, 50, a passenger in his wife's car, when another car approached from the rear and directed their car to pull along the side of the road. When claimant approached the other car he was stabbed in the stomach without provocation. The bulk of claimant's medical bills were reimbursed with exception of \$50.00. Claimant lost seven weeks from work for which he was unreimbursed. The Board found "that claimant was an innocent victim of a crime and the claimant meets all the necessary statutory criteria for an award. It was certified that claimant has a 9 inch scar on his stomach, just to the left of his naval.

Award: \$50.00 for unreimbursed medical expenses; \$410.51 for lost time, \$125.00 for disfigurement, 5 weeks at \$25.00 per week, for a total of \$585.51, less attorney's fee."

*Claim #251-P-70

Claimant, male, 45, was pushed down a flight of stairs by Halloween pranksters. Our investigation revealed that claimant sustained abrasions and cuts to his ribs, eyes, hand and head. The bulk of claimant's medical bills, with the exception of \$70.00 were paid by insurance. Claimant lost six weeks from work and his average weekly wage was \$106.80. Claimant has since returned to work at no diminution in earnings. Claimant alleges that he has an out of pocket loss of \$175.00, seven weeks at \$25.00 for child care as his injuries prevented him from properly caring for his child.

The Board found that claimant was an innocent victim of a crime and that claimant met all the necessary criteria for an award for the following items:

Award: \$330.00 for lost time, six weeks @ \$55.00 per week, \$70.00 for unreimbursed medical expenses, \$175.00 for unreimbursed expenses for child care, for a total of \$575.00.

Claim #252-P-70

Claimant is a female, 48, who was stabbed on a public street in Baltimore by a group of unknown assailants. She incurred \$25 in medical bills and lost one week's earnings, as a result of the incident. She returned to work with no diminution in earnings. The Board found that claimant did not meet the minimum allowable claim prerequisites by Section 7 of Article 26A of the Maryland Annotated Code. Accordingly, the claim was denied.

*Claim #254-P-70

Claimant is the mother of a boy, 16, who was stabbed in the right hand and lung and robbed on a public street in Baltimore by five unknown assailants. The bulk of the medical bills were paid by insurance. The Board found victim to have met all statutory prerequisites for an award. Award: \$252.00 for unreimbursed medical expenses.

Claim #257-P-70

Claimant, female, 28, was attacked while on her way to night classes at Johns Hopkins University. She was dragged into the wooded area of the campus by an unknown assailant and thrown down an embankment into a small stream. Her medical expenses were paid by insurance and she lost 48 hours from work. The Board found "claimant is an innocent victim of a crime, however, claimant does not meet the requirements of Section 7 of Article 26A of the Maryland Annotated Code. Section 7 specifically states that the claimant must lose at least two weeks earnings and/or have out-of-pocket expenses of at least \$100.00. Accordingly, therefore, this claim is denied."

Claim #259-P-70

Claimant, male, 49, was shot in the chest during an altercation in Baltimore. Our investigation reveals that the claimant's medical bills were paid for by insurance and that he was reimbursed by his employer for his lost time and that he returned to work at no diminution in earnings.

This Board found "that the claimant does not meet the necessary prerequisites for an award in this case. Section 7 of Article 26A of the Annotated Code of Maryland mandates that no award shall be made in a claim unless said claimant has a minimum out of pocket loss of \$100 or has lost two continuous weeks of earnings or support. Accordingly, this claim is denied."

Claim #264-D-70

The claimant's son, age 16, was shot and killed during an argument in his home in Baltimore by a friend. The Commissioner found that the deceased was an innocent victim of a crime, however, he also found that the claimant was not dependent upon the deceased for his principal support as required by Article 26A of the Annotated Code of Maryland. The claim was therefore, denied.

The Board has repeatedly held that Section 5(a)(3) of the statute is clear and unambiguous and means exactly what it says. Namely, that a claimant, in order to be eligible for an award under the statute must demonstrate to this Board that he was dependent for his principal support upon the crime victim.

The decision was, therefore, affirmed by the full Board.

*Claim #265-D-70

Claimant is the widow of a man who was shot and killed by a bank robber while he was a customer in a bank in Baltimore. The claimant was employed at the time of the incident and has no dependents.

The Board found "that the claimant was partially dependent upon her deceased husband. We further found that the deceased was an innocent victim of a crime and the claimant meets all the necessary statutory criteria for an award.

Award: Up to \$6,000.00 for a partial dependency death award, payable at \$176.15 per month. Seven monthly awards will be paid retroactively up to May 1, 1971 and thereafter, \$176.15 will be paid monthly. In no event shall the total of all payments to the claimant exceed the sum of \$6,000.00, all subject to the further order of this Commission."

*Claim #266-P-70

Claimant, male, 19, a resident of New York, unemployed, was shot in his right side while hitch-hiking through Prince George's County by an unknown assailant. Our investigation revealed that the assailant stopped the car and forced claimant to get into the car at gun point. The claimant, after a short interval, jumped out of the car and was shot by the assailant. The Board found claimant to be the innocent victim of a crime and serious financial hardship was determined. Award: \$567.03 for unreimbursed medical expenses.

Claim #267-P-70

Claimant, male, 49, sustained a cut to his right hand and twisted his right arm during a hold-up at Pimlico Race Track in Baltimore. The Board found "that the claimant is an innocent victim of a crime. However, we do not find that he meets the statutory requirements for an award, nor does he have a serious financial hardship as a result of the crime.

The claimant lost only two days from work and his medical bills were paid by insurance. Claimant has since returned to work and at present has no diminution in earnings, although he lost \$70.00 in wages when he initially returned to work. We find that this slight decrease in salary was not enough to make claimant eligible for an award. The claim is, therefore, denied."

*Claim #271-P-70

Claimant is the father of a 10 year old girl who was stabbed in the spine while she was walking home for lunch by a 15 year old male assailant in Cumberland. The victim is completely paralyzed from her waist down and the professional medical prognosis is permanent paraplegia. We find her to be an innocent victim of a crime and serious financial hardship is determined. We also find that she has a permanent total disability as determined, under Maryland Law. See Article 101, Section 36(1). Notwithstanding a finding that financial hardship will exist, there being no average weekly wage, no compensation for disability can be awarded. Award: Victim's unreimbursed medical expenses are of a continuing nature and they will be paid periodically by the Board when submitted and verified. However, in no event shall the total of all payments to the claimant exceed the sum of \$45,000.00. The Board reserves the right to reopen and reinvestigate this claim and, if warranted from the facts then existing, to issue a new order based upon a change in the victim's physical or financial condition.

Claim #274-P-70

"Claimant, male, 29, was shot in the back at a cook-out at his home in Baltimore County by his brother-in-law. The Board found that claimant is not an eligible claimant for an award under our statute, Section 5(b) of Article 26A of the Annotated Code of Maryland specifically excludes family crimes. The claim is, therefore, denied."

*Claim #281-P-70

"Claimant, female, age 50, was struck on the back of the head with an unknown object that was thrown through the window of a bus in which she was riding in Baltimore by a youth. Our investigation reveals that claimant was unemployed at that time, and consequently lost no time from work. Claimant also sustained \$395.50 in unreimbursed medical expenses. The Board found "that claimant is the innocent victim of a crime and that she meets all the necessary statutory criteria for the following award. Award: \$395.50 for unreimbursed medical expenses."

Claim #282-P-70

Claimant, male, 32, sustained a fracture of his left clavicle and a dislocation of his shoulder during a fight between him and his neighbor in claimant's backyard. Our investigation reveals that the bulk of claimant's medical bills, with the exception of \$15.00 were paid by insurance and that claimant received \$89 per week in sick benefits during the six weeks he was home sick. Claimant has since returned to work at no diminution in earnings.

The Board found "that claimant does not meet the minimum requirement for a claim as mandated by Section 7 of Article 26A.

Assuming without deciding that claimant was an innocent victim of a crime, we further find that claimant did not suffer a serious financial hardship as a result of this incident or required by Section 12(f) of the statute. Accordingly, this claim is denied."

*Claim #283-P-70

Claimant, female, 52, was injured when she attempted to stop two men from fighting with each other in a department store in Baltimore. Our investigation reveals that the claimant's right kneecap was fractured during the incident, and that a portion of claimant's medicals have been paid by insurance. Claimant's total unreimbursed medical expenses are \$1,223.40.

The Board found "that claimant is an innocent victim of a crime and that she meets all the necessary statutory criteria for an award. Award: \$1,223.40 for unreimbursed medical expenses and \$113.36 for lost time, 4 weeks at \$28.34 for a total of \$1,336.76.

*Claim #295-P-70

Claimant, female, 35, was a victim of a rape and assault in her apartment by her landlady's grandson. Our investigation reveals that the claimant sustained multicple contusions and abrasions of the face, a fracture of the nasal bones and displacement of the nasal bone from left to right and several unsightly scars around her eyes and under her left cheek. The assailant was tried, found guilty and given eight years imprisonment.

Our investigation also reveals that the bulk of claimant's medical bills with the exception of \$813.50 were reimbursed by insurance. Claimant also received sick pay during her convalescence with the exception of the last two weeks for which she was not reimbursed. Claimant has since returned to work with no diminution in earnings.

The Board found "claimant to be the innocent victim of a crime and that she meets all the necessary statutory criteria for an award.

Award: \$813.50 for unreimbursed medical expenses and \$110.00 for two weeks lost time at \$55.00 per week and \$875.00 for disfigurement, 35 weeks at \$25.00 per week for a total award of \$1,799.50, less attorney's fee, all subject to the further order of this Board."

Claim #9-P-71

Claimant, female, 32, alleges that she was injured when she fell into an open manhole on a public street in Baltimore.

The Board found "Assuming, without deciding, that other statutory requirements are met, we are unable to find the commission of a crime and therefore, this claim is hereby denied."

Claim #21-D-71

This claim is filed by the widow on behalf of her husband who was shot to death by a friend in a bar in Montgomery County. Our investigation reveals that the deceased and his friend were playing with a revolver when it discharged and killed the decedent. Our investigation also reveals that the decedent was separated from the claimant and \$4,205 in arrears in his support payments to the claimant. Claimant was on welfare at the time of the decedent's death. The Board found "from the record before us that there is no showing that the deceased contributed anything of substance

to the support of the claimant and in point of fact, the claimant was not dependent upon the deceased for her support, but was dependent upon the Department of Social Services. Section 12(f) of the statute states that no award shall be made to a claimant unless the claimant will suffer a serious financial hardship as a result of loss of earnings, support and out of pocket expenses incurred as a result of the injury. We find that since the claimant was not being supported by the deceased, she cannot have a serious financial hardship for the loss thereof. The claim is, therefore, disallowed, all subject to the further order of this Board."

Claim #24-P-71

This claim was filed by a claimant, male, 37, who was injured in a barroom fight in Salisbury, Maryland. He and his alleged assailant both swore out warrants against each other. After the filing of the claim, we were informed by the State's Attorney for Wicomico County that the claimant withdrew the charges against the alleged assailant.

The Board found that the claimant had not fully cooperated with the law enforcement agency as required by Section 12(a)(3) of Article 26A of the Maryland Annotated Code. The claim was, therefore, denied.

*Claim #41-P-71

Claimant, male, 28, was shot in the stomach and right side on a public street in Baltimore for no apparent reason. Claimant has since returned to work at no diminution in earnings. The bulk of claimant's medical expenses were paid for by insurance with the exception of \$200.50. Claimant was reimbursed \$70.00 per week by insurance for his lost time.

The Board found "claimant is the innocent victim of a crime and that he meets all the necessary statutory criteria for the following award. Award: \$200.50 for unreimbursed medical expenses, \$31.36 for lost time for a total award of \$231.86."

Claim #61-P-71

Claimant, male, 20, was shot in the head during a fight on a public street in Baltimore. Our investigation revealed that the claimant and another individual were involved in a fight earlier in the day. Later in the day, claimant and his friends went over the individual's home, knocked on his door, and when the individual and his father came to the door, a fight ensued. The individual was stabbed by persons unknown and claimant was shot in the head by the individual's father. The Board found, "that the claimant is not an innocent victim of a crime and that his behavior prior to the incident was provocative and that he was a willing participant in the fight. We, therefore, find it inappropriate to make an award in this case."

MARCH 25, 1971.

Hon. Robert Quinn, Attorney General, State of Massachusetts, Boston, Mass.

Dear Mr. Attorney General: Enclosed is a copy of S. 750, a bill I introduced recently in the Congress, together with a brief section-by-section analysis of its provisions. This proposal would create a compensation program for victims of

crime within the federal jurisdiction.

Because of the State of Massachusetts has a program that compensats victims of crime, I would appreciate very much your comments on S. 750. In your appraisal, I would hope you could include such matters as a general comparison of the features of S. 750 with the program presently operating in your State. For the implementation of a plan at the federal level, it would be most helpful also to have specific suggestions based upon your State's experience with such a program, including the costs of the program.

You will note that S. 750 proposes as well to assist in underwriting the costs of comparable compensation systems within State criminal jurisdictions throughout the Nation. I would thus appreciate your views on how best to meet this objective. Finally, any other thoughts you may have on this matter would be greatly appreciated. I would be gratified also if you could report on this—at least

in a preliminary way—within a month.

Thank you very much for your cooperation in this matter.

Yours very truly,

MIKE MANSFIELD.

THE COMMONWEALTH OF MASSACHUSETTS,
DEPARTMENT OF THE ATTORNEY GENERAL,
State House, Boston, April 29, 1971.

Re S. 750 Criminal Injuries Compensation Act of 1971.

Hon. MIKE MANSFIELD, U.S. Senate, Majority Leader, Washington, D.C.

Dear Senator Mansfield: Enclosed please find an analysis of proposed S. 750 as compared with the Massachusetts Act, Massachusetts General Laws, Chapter 258A. I hope this may be of some assistance to you in considering pending federal legislation.

Very truly yours,

ROBERT H. QUINN, Attorney General.

Before entering into a comparison of S-750 with the Massachusetts statute, Massachusetts General Laws, chapter 258A (see appendix A), a few general

observations should be made.

The most striking difference between the two statutes lies in the nature of the compensation. Chapter 258A provides compensation only for out-of-pocket loss, together with actual loss of earnings or support. Out-of-pocket loss is defined as unreimbursable expenses or indebtedness reasonably incurred for medical care or other services necessary as a result of the injury. In addition to this, S-750 would provide compensation for pain and suffering, and defines personal injury as "actual bodily harm and includes pregnancy, mental distress, nervous shock and loss of reputation." It may well be desirable to compensate victims for pain and suffering, mental distress, nervous shock and loss of reputation. Such provisions will, however, have two substantial effects on the program. First, it will substantially increase the cost; and secondly, it will increase litigation. The Massachusetts statute has had a moderate cost and required a minimal amount of litigation because the elements of damages are objective and therefore easily ascertainable. It is my opinion that this would not be the case if subjective factors such as pain and suffering, et al, are introduced into the program.

Unlike New York and several other states, the Massachusetts program does not provide compensation through an independent Compensation Board, Instead,

¹ Chap. 258A appears at p. 274 of this record.

we have made use of existing governmental agencies. The victim files his claim in the district court within the territorial jurisdiction in which he lives. After an investigation by the Attorney General to determine the validity of the claim, a hearing is held and a finding is made by the court. This system has been relatively effective. Our district courts do not sit with jury and consequently, are not burdened with the heavy backlogs that exist in courts providing jury trials-Coupled with the fact that there is a minimum of litigation for reasons set forth above, claims by victims of violent crimes have been processed expeditiously.

A third general area of observation is the cost factor which has been moderate in our limited experience. The total amount awarded from the inception of the program on July 1, 1968, through April 26, 1971, is \$92,546.67. Probably the most important reason for this has been the exclusion of subjective factors from the element of damages, as mentioned above. Public awareness of the program may also be an important factor. Some indication of this may be garnered by turning to the study commission (see appendix B) which reported the bill. It was estimated that the annual cost of the program would range between three-quarters of a million and two and one-quarter million dollars per year. I believe the fact that the actual cost has been dramatically lower is due in part to a lack of public awareness. The trend definitely appears to be towards an increasing number of claims.

Your proposal to provide 75 per cent reimbursement to state programs should be a compelling inducement for adoption of this worthwhile legislation by the remaining states. Hopefully, any federal legislation should provide flexibility in allowing the states to determine the most effective manner of administering their various programs.

Because the Massachusetts and several other compensation programs are of fairly recent enactment, I suggest that it would be fiscally prudent, at least initially, to exclude pain and suffering as an element of damages. Once broader cost data is available, it may become feasible and socially desirable to include pain and suffering in order to truly make the innocent victim whole.

Having made these general observations, I will now proceed to a specific analysis of the more germane provisions of S-750.

TITLE III-AWARD AND PAYMENT OF COMPENSATION

 $Sec.\ 301(b)(3)$ is comparable with chapter 258A. In the case of the death of a victim, it grants the Commission absolute discretion in distributing compensation to dependents or close relatives. It may be desirable to provide guidelines to assist the Commission in exercising its discretion.

Sec. 301(d) is similar to chapter 258A and is consistent with the theory of

awarding compensation to innocent victims only.

Sec. 301(f) The first sentence is similar to chapter 258A in not requiring a conviction or prosecution in order to maintain a claim. This is consistent with the purpose of this legislation when read together with the requirement that the Commission must find that a crime was in fact committed or attempted. This requirement in the second sentence that proceedings shall be suspended upon application of the Attorney General or the accused until a prosecution for an offense arising out of such act is no longer pending or imminent appears to be rigid and inflexible, and may work a hardship when the criminal trial is delayed for a lengthy period. It would be more desirable to make suspension of the proceedings discretionary with the Commission, depending upon the prejudice which a finding would attach to the criminal proceeding.

Sec. 302 is dissimilar to chapter 258A in listing specific criminal offenses. Chap-

Sec. 302 is dissimilar to chapter 258A in listing specific criminal offenses. Chapter 258A provides a general definition of crime which encompasses all crimes involving the use or threat of force. (One exception is the requirement of a specific intent in acts involving the use of a motor vehicle which results in injury.)

Sec. 304 Under chapter 258A the court may allow a reasonable attorney's fee not to exceed fifteen percent, to be paid out of but not in addition to the award.

Sec. 305(2) Chapter 258A provides for compensation for loss of earnings or support in an amount equal to the actual loss sustained and does not compensate for loss of earning power. In this respect, proposed S-750 may be more equitable since it would not preclude recovery during extended periods of incapacity for the sole reason that the victim was unemployed at the time the injury was sustained.

Sec. 305(4) The exclusion of pain and suffering as an element of damages has

previously been discussed.

Sec. 307(a) The Massachusetts statute of limitations is one year. In the case of

death resulting from the injury the claim must be brought within 90 days. Upon good cause, the court can extend the time for filing, either before or after the expiration of the filing period. There is good reason for the shorter statute of limitations. It allows for a prompt investigation of the circumstances surrounding the injury. Chapter 258A has a further provision, not found in proposed S-750, that no award can be made unless the crime was reported to the police within 48 hours after the occurrence, unless the court finds such report to have been delayed for good cause. This is an attempt to preclude fraudulent claims by those receiving self-inflicted injuries.

Sec. 307(b) The maximum amount of compensation in Massachusetts is pres-

ently \$10,000.00.

Sec. 307(c) The exclusion from compensation are broader under chapter 258A which excludes an offender, an accomplice of an offender, a person living with the offender or maintaining sexual relations with the offender.

Sec. 308(a) Chapter 258A does not contain a similar provision for the payment of compensation on such terms as are deemed appropriate. S-750 is more flexible

and will allow for periodic payments and review by the Commission.

Sec. 308. (b) This section contains three significant differences from chapter 258A. In addition to deducting payments received from the offender or from public funds, the Massachusetts Act also deducts payments received from insurance programs. Secondly, chapter 258A provides not only for the deduction of funds received as a result of the injury, but also deducts all funds to be received from the categories described. Finally, chapter 258A does not contain a similar provision that all deductions shall be "only to the extent that the sum of such payments and any award under this Act are in excess of the total compensable injuries suffered by the victim." The absence of such a provision has resulted in the Massachusetts statute being construed to mean that all payments must be deducted from the ultimate award even if they are not in excess of the total compensible injuries suffered by the victim.

TITLE IV-RECOVERY OF COMPENSATION

Sec. 401 is similar to chapter 258A in that it subrogates the state to the victim's rights in order to obtain reimbursement from the offender.

Sec. 402 Similar to chapter 258A in that a claim for compensation does not preclude a civil action for damages by the victim.

Exhibit B

THE COMMONWEALTH OF MASSACHUSETTS, REPORT OF THE SPECIAL COMMISSION ON THE COMPENSATION OF VICTIMS OF VIOLENT CRIMES

STUDY AUTHORIZATION

Resolves of 1966. * * Chapter 29

RESOLVE PROVIDING FOR AN INVESTIGATION AND STUDY BY A SNECIAL COMMISSION RELATIVE TO THE COMPENSATION FOR VICTIMS OF VIOLENT CRIMES

Resolved, That a special commission, to consist of two members of the Senate. five members of the House of Representatives, and three persons to be appointed by the governor, is hereby established for the purpose of making a comprehensive study of the so-called Good Samaritan law and recent developments in the area of compensation for victims of violent crimes. Said commission shall, in the course of its investigation and study, consider the subject matter of current house documents numbered 730, to provide for the maintenance of jails and houses of correction by the commonwealth; 1117, providing for investigation, study and recommendation by an unpaid special commission relative to establishing compensation for victims of criminal assaults; 2634, establishing the criminal injuries compensation commission; 3010, establishing a special injuries compensation commission providing for indemnity for certain persons helping a person being assaulted and providing a penalty for refusing to help persons being unlawfully assaulted; 3011. providing for an investigation and study by a special commission relative to compensation for crimes of violence; and 3012, establishing a special commission to investigate and study the advisability and means of compensating innocent victims of crime.

Approved May 31, 1966.

Resolves of 1966, Chapter 112

RESOLVE REVIVING AND CONTINUING CERTAIN SPECIAL COMMISSION

Resolved, That all special commissions required to file their reports on or before the last Wednesday in December in the year nineteen hundred and sixty-six, and which have not filed such reports, are hereby revived and continued until the last Wednesday in January, ninenteen hundred and sixty-eight.

Approved December 28, 1966.

LETTER OF TRANSMITTAL TO THE SENATE AND HOUSE OF REPRESENTATIVES

To the Honorable Senate and House of Representatives:

Gentlemen:—In conformity with Chapter 29 of the Resolves of 1966 which created it, the Special Commission on the Compensation of Victims of Violent Crimes submits herewith its report, accompanied by recommended legislation.

Respectfully submitted.

Sen. Mario Umana,
Senate Chairman.
Sen. William D. Weeks.
Rep. Daniel W. Carney,
House Chairman.
Rep. Gerald J. Morrissey.
Rep. Edward J. Dever.
Rep. Joseph T. Travaline.
Rep. Albert A. Gammal, Jr.

ACTIVITIES OF THE SPECIAL COMMISSION

Subsequent to the approval of Chapter 29 of the Resolves of 1966, Senate President Maurice A. Donohue appointed Senators Mario Umana of Boston and William D. Weeks of Cohasset; Speaker of the House John F. X. Davoren appointed Representatives Gerald P. Lombard of Fitchburg, Manuel Faria of Fall River, Edward J. Dever of Arlington, Gerald J. Morrissey of Boston and Albert A. Gammal of Worcester; and His Excellency, Governor John A. Volpe appointed the Honorable Reuben L. Lurie of Brookline, Mrs. Dexter F. Cooper, Jr., of Lexington, and Mr. Lowell S. Nicholson, Esq., of Salem, to serve on the Special Commission.

Since then, Representative Lombard and Judge Lurie have resigned from the Commission, Representative Faria has retired from the House, and Mrs. Cooper has moved without the Commonwealth. The Speaker replaced Representative Lombard as House Chairman by appointing Representative Daniel W. Carney of Boston, and Representative Faria, by appointing Representative Joseph T. Travaline of Somerville.

After organizational meetings, the commission under the direction of Chairman Umana, began to peruse the extensive body of literature which has been generated in the past few years, and became impressed with the unanimity of support for some type of victims' compensation program. This impression was reinforced by the testimony given at a public hearing held by the Commission on June 6, 1967. Attorney-General Elliot Richardson, Speaker Davoren, Mr. Stanley L. VanRennselaer, Chairman of the New York State Crime Victims Compensation Board, Dr. Stephen Schafer of Northeastern University and formerly consultant to the President's Advisory Commission on Criminal Justice and Law Enforcement on the topic of Compensation for Victims of Crime, Professor Paul F. Rothstein of Boston College Law School, Commissioner John A. Gavin, Massachusetts Department of Correction, Professor John O'Reilly of Boston College Law School, speaking for the Massachusetts Chapter of the Americans for Democratic Action, Chief Paul Doherty of the Capitol Police and Legislative Chairman for the Massachusetts Chiefs of Police Association, Mr. Alden Hoag, United Prison Association, and Mr. J. Bryan Riley, Massachusetts Halfway Houses, Incorporated, were among those who came before the Commission and endorsed the concept of compensation for crime victims. No opposition was heard.

INTRODUCTION

"At this very moment there are thousands of dangerous or potentially dangerous criminals wanted, but at large, in the United States. They walk our streets and ride our subways. The chances of any citizen being victimized by one of

these criminals increases daily. With the terrifying experience of being an assault victim, the abstract problem of crime in the streets becomes intensely

personal."1

These are the words of Governor John A. Vo'pe describing one of America's most disturbing domestic problems—crime. It is common knowledge that the rate of crime is staggering and that this rate is increasing annually. From 1964 to 1965, for example, the rate of serious crime increased six percent. In the United States in 1965 there were 9,850 cases of murder and non-negligent manslaughter, 22,467 forcible rapes, and 206,661 aggravated assaults. In the same year, Massachusetts had 129 cases of murder and non-negligent manslaughter, 290 forcible rapes, and 2,712 aggravated assaults.

The plight of the criminal in all of these cases has improved as a result of recent Supreme Court decisions. The criminal, though a violator of the law himself, is to be guaranteed full protection of the law and none of his constitutional rights are to be taken away. Bearing these facts in mind, it is not at all surprising that *Time* magazine should write the following: "In the public mind the interests of the offender may not infrequently seem to be placed before those

of the victim." 8

Clearly, the plight of the victim is immeasurably worse than that of the criminal. A truly enlightened society cannot possibly provide food, shelter, and legal protection for the offender while totally ignoring the victim. And yet in every country except Great Britain and New Zealand, and in every state of the Union

except California and New York, such a situation currently exists.

As a result of its research and of the public hearing, the Commission determined that it would submit legislation to the General Court this session, based on the recommendations of Speaker Davoren. The sole remaining problem revolved around whether the executive, through a new quasi-judicial administrative agency or the existing judicial structure should be vested with the authority to hear and determine compensation cases. It became apparent that further investigation into the former was in order. Thus, on June 28 and 29, 1967, several members of the Commission met with the Board members and staff of the New York Crime Victims Compensation Board to observe their operations and discuss the problems they have encountered since the effective date of their program. While the members of this commission were deeply impressed by the efficiency of the people engaged in the program in New York, and the diligent care for individual rights which they displayed, the commission is of the opinion that our Massachusetts Judiciary should be given the opportunity to make the decisions involved, for the decisions required are, in the final analysis, judicial in nature. Elaboration of why this authority should be vested in the judiciary is contained infra.

Positive action must be taken. Former Supreme Court Justice Arthur Goldberg puts it this way: "We would confront the problem of the victim directly; his burden is not alleviated by denying necessary services to the accused. Many countries throughout the world, recognizing that crime is a community problem, have designed systems for government compensation of victims of crime. Serious consideration of this approach is long overdue here. The victim of a robbery or an assault has been denied the 'protection' of the laws in a very real sense, and society should assume some responsibility for making him whole." ⁴

The innocent person who suffers physical injury as the result of a violent crime faces loss of income, enormous medical expenses, pain and suffering, and disruption of his daily life. That the state should compensate such a victim can be explained in many ways. There are sound social, moral, and political reasons

why the state should compensate the victim of a violent crime.

THE CASE FOR COMPENSATION

State Compensation for victims of violent crimes can be justified on a number of bases, each of which is probably sufficient in itself. Some of the arguments for state involvement in the field are set out below.

¹ Message from Governor Volpe, Journal of the House, February 9, 1967, p. 22. ² These and other statistics can be found in The Uniform Crime Reports of 1965 put out

These and other statistics can be found in the Chipoth Crime Reports of 1903 put out by the United States Department of Justice.

3"A Break for the Victim". Time. 87: 78, June 10. 1966, citing, "Compensation for Victims of Violent Crimes," British White Paper, Cmnd 2323, 1964.

4 New York University Law Review, 39: 204, February 11, 1964, citing Arthur J. Goldberg, Fifth Annual Madison Lectures, New York University.

(1) "Failure to Protect". It can be legitimately held that the State has completely pre-empted the field of police protection. No other power of government is considered as fundamental to the existence of the State, and the necessity for it, as the power turned over to the government for the protection of its citizens. The so-called "Social Contract Theorists", Hobbies, Locke, and Rousseau, treated the police power as the raison d'etre of the state two and three centuries ago. The reason people come together and institute government is to obtain personal protection by relinquishing to the state power to enforce the laws. This concept of government was, of course, basic to the thinking of the founders of our Nation.

The history of the concentration of the police power in the hands of the sovereign in England demonstrates the allegorical nature of the social contract theories; it also serves to re-inforce the case for state responsibility to victims of crime. An electric and succinct restatement of the histories laid out in law review articles on this topic could be summed up as follows: Initially, violent crimes against the person were violently avenged by the victim or by his relatives. Encroaching civilization led citizens away from violent retribution when it became obvious that the practice of substitution of material payment by the offender or his family and associates to the victim or his heirs in place of violence was neater and more profitable. Unfortunately, the king also saw the profit in the scheme, and he gradually usurped the right to receive payment for crimes. The sovereign has continued to the present to exact payment for evil activities on the part of its citizens. Punishment, as we know it today, is a relatively recent development.

The important point is, that the king usurped the right of the citizen to restore equilibrium after a crime had been committed. It is true, of course, that at law, if a violent crime has been committed, a tort has occurred also, and the victim has the right to recover civilly. But—only if the perpetrator can be located and secured in a location which recognizes the tort; and only if the criminal is sufficiently affluent to possess assets which will remain after the State is finished exacting its due, in terms of fines and monopolization of the

offender's time.

In short, the state, and the state alone has the responsibility to protect citizens. Through the avarice of medieval monarchs, the right of citizens to become whole again in the aftermath of mayhem has been abrogated. The time has come to re-

establish that right.

(2) "Social Welfare" Social welfare justification for compensation of victims of crime is straightforward. Just as universally-held concepts of modern industrial democracy dictate public assistance for the disabled veteran, the sick, the unemployed and the aged, so they require that victims of crime be supported, not because of any inherent obligation on the part of the state, but because the twentieth century conscience cannot tolerate the suffering involved. The power of the state to act from these grounds is nowhere seriously challenged.

(3) "By the Grace of the Government" While the human motivations for this justification may be the same as those implicit in social welfare philosophy, the objects of the two differ widely. The term "social welfare" conjures images of sizeable classes of people, whereas the "grace" concept contemplates the state dealing mercifully with individuals. Special legislation for the benefit of the family of a police officer killed in the line of duty demonstrates the concept in

practice, as does the practice of granting Christmas pardons to convicts.

(4) "Crime Prevention" A substantial part of the impetus for compensation has developed as a result of public reaction to the apparently imminent extinction of the "Good Samaritan". This reaction crystallized with the slaying of Kitty Genovese on the streets of New York while thirty-eight complacent citizens watched and listened. While the injured Good Samaritan is a special class of victim, his protection and preservation would come about with general legislation for all victims (especially if the common law disabilities against his decision to participate are removed).

Additionally, it can be argued that the knowledge of the cost of crime to the public which would be developed over the course of the operation of a compensation statute—knowledge which would be palpably accurate—would cause a favorable readjustment in the allocation of public resources to combat crime. And finally, the operation of a compensation statute which required determination of the degree and mode of the victim's own contribution to the crime

might well bring about a reduction in the occurrence of crime by enlightening

the public as to how to avoid crime-breeding situations.

(5) "Political Arguments" For varying reasons, the articulators of political opinion at all points on the political spectrum enthusiastically endorse the concept of compensation. From the New Republic, through Commonwealth, to National Review (the latter two emphasizing the indignity of the "poverty" approach embodied in the California legislation), with Newsweek thrown in for good measure, support for the proposal is unanimous. A Gallup poll on the topic returns a 62% favorable tally. In short, it seems to be what the people want—and this is, after all, the pivotal factor in deciding whether or not legislation should be passed. A frequently-found statement in the articles which attempt to analyze the popularity of the issue would be to the effect: "Increasing attention to the rights and privileges of the accused in criminal cases has brought to the fore the stark contrast between the situation of the criminal and the plight of the victim. Etc. . . ."

Most important is the almost negligible cost of the program. For it is so sweeping in its scope, radical in its concept and so vitally necessary to our American concept of justice, that one could conclude it would be reasonable to devote a significant percentage of the operating budget of the Commonwealth towards its operation. It would seem, however, that total cost for the program would be

considerably less than a full percentage point of the state's spending.

(6) "Anti-alienation" argument. It must be conceded that it is the paramount responsibility of those who truly believe in democracy to stamp out and prevent "alienation" of citizens. Every time a disillusioned individual utters, "Individuals count for nothing to the government.", it is a thrust at the jugular of democracy.

Yet consider the plight of the innocent victim of a violent crime: He goes happily about his business, secure in the knowledge that the state will protect him. But it fails in its obligation, and mayhem strikes. After he is picked up off the pavement and delivered to the handiest hospital (where, of course, responsibility for his repair is his own), he slowly mends and resigns himself to any permanent impairments. He also resigns himself to the loss of pay he suffers during his recovery. Finally, he can return to work—if the job is still there. But the State is not satisfied; there must be a trial. The victim is a key witness to a crime. He must give up more of his time, more of his pay, relive an unpleasant experience, and submit himself to questioning, the object of which can be to impugn his dignity, competence and integrity. When it is finally over, he can watch the prisoner being led away to free room, board, recreation—to which he contributes through his tax payments. The prosecutor, the police and the judge then give him his recompense; a few words of praise for this public-spirited cooperation.

Such an individual would have earned the right to label as a callous, barbaric, foolish hypocrite anyone, including politicians, political scientists or journalists, who tried to convince him of the importance of individuals to the functioning of

our democratic institutions.

To sum up, the state owes compensation to the people it fails to protect from crime. The concept is in keeping with ideals of modern democratic government's role in society, it is merciful, wise from the standpoint of preventing crime, overwhelmingly desirable politically, and of significant importance in the preservation of belief in democratic government.

Why Not Base Compensation on the Need of the Victim?

The distinguished feature of the Speaker's compensation proposal is that it requires no reference to the need of the individual. Both the other programs in operation in the United States require that victims be in need of the compensation. Indeed, California's general compensation for victims statute vests the administration in the state welfare agency.

The wisdom of a welfare-oriented program of compensation has been seriously questioned. Gilbert Geis, writing in the California Western Law Review in the spring of 1966 states, "There has already been some indication that placing of the compensation program within the jurisdiction of the Department of Social Welfare might have been an ill-considered move, particularly in terms of identifying the new law in the public mind with charity rather than with legitimate payment of one's due." ¹

¹ Gilbert Geis, "Experimental Design and the Law: A Prospectus for Research on Victim-Compensation in California," California Western Law Review, 2: 85, Spring, 1966.

The welfare-oriented program implies two things: first, that only needy people can feel the hardship of physical injury, and second, that the state has an obligation to help innocent victims recover from a social ill only if they fall within a specific income group. The weakness of the first argument is readily pointed out in the Economist which states, ". . . the legislation now going into effect (in California) was sponsored by a State Senator who was moved by the plight of a middle-aged woman who had spent her life savings of \$1,500 on medical costs after she had been attacked by two young purse-snatchers. Ironically, she would not qualify for compensation under the present law."2

As virtually a direct answer to the second argument, Commonwealt states in 1965 that when a welfare-oriented system is used ". . . the aid becomes charity to the unfortunate when in fact the crime is society's misfortune as well." 3

Victims of violent crime simply do not come from one income group. Nor do the resulting misfortunes hit only those with a small income. Loss of job, enormous medical expenses, disruption of normal life, pain and suffering are universal in the destruction. To force a person who has suffered all or any of these misfortunes to accept he stigma of welfare is totally unjustified. And to exclude for economic reasons a person who has suffered these same hardships is equally unjustifiable. Significantly, it is the middle class family which will feel the greatest disequilibrium from the hardships.

An editorial appearing in the New York Times on January 18, 1966 states, "since the maintenance of law and order is a basic responsibility of the state, it follows logically that the innocent victims of violent crimes are entitle to compensation from the state." And the Albany Law Review holds, "When the state fails in this assumed duty (protecting its citizens against crime) there is an inherent inequality in discriminating among the victims according to financial

condition." 4

Finally, it might legitimately be contended that welfare-oriented programs to compensate victims of violent crimes are an exercise in legislative futility. Those who would be able to show need for compensation would probably qualify for assistance under some other program. The total effect, therefore, of passing the welfare-oriented program, would be nil.

Compensation is not a handout; it is restitution. Such a program cannot legitimately exclude thousands of people from this protection on purely a class

basis.

Why Cases of Compensation for Victims of Violent Crimes Should Be Determined in Our District Courts

The founding fathers of the Constitution for the Commonwealth of Massachusetts, in the Declaration of Rights, made the following statement in order to preserve the rights of every citizen to the protection of his life, property, or character: "Every subject of this Commonwealth ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property, or character. He ought to obtain right and justice freely, and without denial; promptly and without delay; conformably to the laws."

It is the contention of this report that the District Courts, in keeping with the spirit of the above quotation, would be best suited to take jurisdiction of cases dealing with compensation for victims of violent crimes, as opposed to es-

tablishing a separate administrative system to handle them.

Administrative agencies, to a large degree, have been a response to the felt need of governmental supervision over complex, technical, problems arising in an industrial society. However, the type of cases dealing with compensation for victims of violent crimes is of such a nature that technical non-legal expertise is not essential. To the contrary, this field involves a broad consideration of more intangible social and ethical factors. This is a field in which it may be asserted that the courts are most expert in that, over the years, they have built up a body of knowledge and experience in dealing with similar matters.

A second reason for the establishment of administrative agencies is that in certain areas the judicial system is intrinsically ill-adapted to handle cases adequately. However, when we are dealing with a field such as compensation for victims of violent crimes, wherein the use of adjudicatory powers is the main

^{2 &}quot;Crime Pays the Victim". The Economist, 218: 27. January 1, 1966.
3 "Aiding the Victims". Commonwealt. 83: 139-40. November 5, 1965.
4 "Compensation for Victims of Crimes of violence", Albany Law Review, 31: 124, January 1967.

technique, the forms are those which have customarily been handled by the courts in an admirable manner, and in such a way as to best promote the public interest. This is thus a field in which the experts are the courts, trained in the traditions of the common law which has served so well whenever the fundamentals of fact finding and adjudication are involved.

A third reason for the establishment of special administrative agencies has been attributed to a failure of the common law courts to meet the great social problems arising from the rapid industrialization and urbanization of the early 20th century. There was a belief that the judiciary's economic and social opinions were so far opposed to the prevailing ideals of the time that the courts would

subvert the legislative purpose.

This belief, however, is no longer justified. Today our common law courts, attuning themselves more closely to the convictions of the present rather than the convictions of the past, recognize the necessity in their work for the consideration of contemporary social, industrial, and political conditions. Law as developed in our common law courts today is something created with the interests of society in mind, through which the individual can find a means of securing his interest, so far as society recognizes them.

Our common law courts thus endeavor to give effect to the social interest in the individual human life, the claim or want of civilized society that each individual therein be able to live a human life according to the standards of the society, and to be secure against those acts and courses of conduct which inter-

fere with the possibility of each individual's living such a life.

Finally, a fourth reason for the establishment of a special administrative agency is that the volume of cases in a particular field is so heavy that the courts are not able to administer them properly and efficiently. This problem, however, does not exist on the district court level. Our District Courts would be fully capable of handling the case load in this patricular field. The total number of civil and criminal cases handled by our District Courts in Massachusetts for the year 1966 was about 800,000. The tota number of aggravated assaults which might lead to an action for compensation under the proposed legislation was approximately 3,000. This figure would represent an increase of less than ½ of 1% in the case load of our District Courts. Such an increase, of course, would be insignificant.

In dealing with cases of compensation for victims of violent crimes, judicial decisions will have to be made. According to Roscoe Pound, decisions and interpretations of this nature must be made as law and not as arbitrary will. This can be done only in accordance with the judicial and juristic traditions of our

common law courts.

This common law tradition is one of reason applied to experience. It assumes that experience will afford the most satisfactory foundation for standards of action and principles of decision. It holds that laws are not to be made arbitrarily, but are to be discovered by judicial and juristic experience of the rules and principles which in the past have accomplished justice. Within a legal system based upon such a tradition, not merely the interpretation and application of legal rules, but in large measure the ascertainment of them must be left to the disciplined reason of the judges in our courts. Because, as has been stated previously, our courts have over the years gained a great deal of experience in such matters, jurisdiction of cases dealing with compensation for victims of violent crimes should be granted to them.

Furthermore, the District Courts should be given jurisdiction over this field because they can insure a greater uniformity in their interpretations and decisions because they are bound by custom to follow the principle of *stare decisis* and the rule of precedence. Only in our courts can there develop the application of received and tested principles as starting points for legal reasoning.

In addition, our District Courts have the distinct advantage of being founded upon the traditional attributes of law as developed in Anglo-Saxon jurisprudence. Principal among those attributes are: (1) the segregation of the function of determining and deciding questions of law from the other functions of government; (2) the fairness, organized thinking and detailed articulation of judicial procedure, and (3) the learning, skill, character, and dignity on the part of our judges. All these attributes make the District Courts especially capable of handling cases of compensation for victims of violent crimes.

The fact that our District Courts guarantee to every individual a full and fair hearing, grounded on findings established by evidence, and directed by principles derived from experience and tested by reason, is another reason for

giving them jurisdiction over this field. Only within the jurisdiction of our courts can such high standards of fairness and procedural due process be fol-

lowed in determining facts and deciding questions of law.

The fact that our citizenry has great faith and trust that justice will be done in the proceedings of our District Courts is also a reason for assigning jurisdiction over these cases to them. It is characteristic of our citizenry to show great deference to the courts. But the citizen is often confused and frustrated on the operation of the administrative process as demonstrated by experience in the representation of citizens before administrative agencies. As professor Kenneth C. Davis has pointed out: "So long as detached and informed opinions differ as to what justice is, one objective in a democratic society is to appear to do justice. That ideal, however, remains unrealized so long as significant groups, whether or not misled, firmly believe that justice is denied."

Especially where these cases would be handled in the District Courts, the citizen would be dealing with a body in his own neighborhood. The adjudication process would thus be more personal and would not have the stigma attached to it of a powerless citizen trying to fight an anonymous governmental bureaucracy. The decentralization of our District Court system would give the handling of these cases a localized character and make the adjudicating body more accessible to our citizenry. On the other hand if these cases were handled by an administrative agency, two alternatives would exist: (1) either complainants would be forced to go to a central agency located in Boston which would result in great inconveniences for many; or (2) a system of branch offices would have to be set up all over the State which would greatly increase the expense of putting the legislation into operation.

However, if these cases were handled in the District Courts the cost of putting the legislation into operation would be minimal. To the contrary, it has been estimated that if a separate administrative agency were established, 20 to 40%

of the cost of awards would have to go toward operating expenses.

Another reason for giving the District Courts jurisdiction over such cases is the matter of personnel. Within our system of District Courts we already have experienced judges who are disinterested, full-time, legally trained professionals. If a separate system of administrative agencies were established, the problem of

finding well qualified trained professionals would arise.

On a more general level, it would be desirable to give the courts jurisdiction over this field as a step in the direction of halting the discernible trend away from the courts, with their complement of judges and rules of evidence and procedure, toward the use of administrative agencies when they are not needed. The danger is that the trend will inevitably erode the integrity of the trial process as we know it today. What is involved is not only the future migration of still more cases from the court's jurisdiction, but the contagion of indifference, at times approaching disdain for the forms of the judicial trial. How long will the guarantees of the trial process remain vital if other processes, dealing with comparable problems, demonstrate the dispensability of those guarantees. For example, if administrative adjudication can function while receiving hearsay, how long can the judicial trial continue to be unaffected by such experience?

In addition, if these cases were handled by the District Courts and later, if for some reason, the courts were found incapable of handling them, it would be easier to remove these cases from the courts' jurisdiction than if an administrative agency were established to handle them. This is true because administrative agencies tend to be self-perpetuating once a number of new jobs is created.

Finally the District Courts should be given jurisdiction over these cases in order to keep up the new trends in criminology, developed for the treatment and punishment of criminals. Criminologists now believe that wider use should be made of released time programs in which the criminal must make restitution for damages to his victim. This would help the criminal understand that he injured not only the state and law and order, but also the victim; in fact, primarily the victim and through this injury the abstract values of society. Such a program, however, calls for the treatment of crime as a totality, a process which only the courts can undertake.

THE COST OF COMPENSATING VICTIMS

Accurate estimates of the cost of compensating victims of violent crimes are impossible to develop. Of the cost of crime generally, the President's Commission on Law Enforcement and Administration of Justice has this to say: "... the

total amount of information is not nearly enough in quantity, quality or detail to give an accurate overall picture." Only the most tenuous prognostications on

the total amount of claims can be made.

In estimating costs, no valid reference can be made to any of the jurisdictions which currently have a compensation statute in effect. New Zealand's society simply does not relate to urban Massachusetts, and the types and severity of the crimes committed there provide no comparable basis. England's system of "socialized" medicine absorbs considerable proportions of claims. California's law is a welfare-oriented one, totally distinct from this proposal. New York's statute became effective on March 1, 1967 and their estimates are quite as tenuous as those presented here.

Bearing this in mind the closest estimate of claims can be set between three-

quarters of a million and two and a quarter million dollars per year.

Using Massachusetts' proportion of the \$65 million which the President's commission estimated as the nationwide cost of crimes against the person other than homicide, on a straight per capita basis, it can be found that the total cost of these crimes to citizens of the Commonwealth is \$960,000 annually, based on 1965 crime rate statistics. Add to this the total of the maximum allowable claim (\$10,000 from section 6 of the bill) times the number of murders committed annually, or \$1.290,000, and the resulting \$2.25 millions is the outside estimate.

This would certainly be reduced to some extent by the non-allowability of some of the claims due to contributions by the victims to their crimes, to the personal reltaionship of the victim to the offender, and in some cases, the absence of any eligible claimant. For example, the Federal Bureau of Investigation estimates that two-thirds of all murder, rape and aggravated assault victims are acquainted with their assailants, indicting that there may be some provocation. Furthermore, most victims of armed robbery probably suffer no lasting injury.

Taking these factors into consideration, and assuming in all cases modified by them that they would exclude a certain proportion of claims, an inside figure of

three-quarters of a million dollars is established.

This does not take into consideration one vitally important factor. Many of the very worst cases of victimized persons wind up on the welfare rolls. In other words, government, and to a large degree state government, is already compensating victims of crime. Although the exact amount of such "back-door" compensation of victims of violent crimes is indeterminable, it can legitimately be assumed that the total estimates set out above would be significantly reduced if welfare payments currently being made as a result of the same cause were credited to the total.

SECTION-BY-SECTION ANALYSIS

Section 1. (Statement of Legislative Intent)

The only notable language in Section One appears in the last sentence, which establishes compensation as a "matter of Grace". This is designed to prevent interpretations of the chapter as granting individuals the right to sue the Commonwealth without regard to appropriations made for awards under normal procedures, and also to avoid imbuing the program with overtones of "public assistance", when it is, in fact, to be applied without reference to the need of the victims.

Section 2. (Definitions)

"Crime" is described narratively; that is, there is no list of references to the General Laws. A list is unnecessary, since (1) the rule-making power granted in subsequent sections could encompass the established of such a list, (2) the qualifications in the definition given would have to be applied to a list of crimes (i.e., that if the act were committed by a mentally competent criminally responsible adult, it is a crime as specified in this new chapter) and (3) the definition is sufficiently specific to provide clear guidelines for the judges. Crimes "by motor vehicle" are explicitly excluded unless the vehicle is used as a weapon.

"Dependent" is used in the text with regard to persons eligible for compensation. It is therefore intended to include all those who are truly deserving of com-

pensation and to exclude those who are not.

"Family" is used in the text with regard to persons excluded from receiving

¹ The President's Commission on Law Enforcement and Administration of Justice, *The Challenge of Crime in a Free Society* (Washington: Government Printing Office, February, 1967) p. 32.

compensation, as potential conspirators or collaborators with the offender. It is therefore written as broadly as possible, to insure that no person directly or indirectly benefits at the expense of the Commonwealth as a result of a crime which he in any way abetted.

The definition of "Victim" is important insofar as it excludes compensation for

property crimes.

Section 3. (District Courts Given Jurisdiction, Empowered to Make Rules and Regulations)

The District and Municipal Courts are given jurisdiction to hear and determine claims, with the respective Chief Justice given authority to make rules for uniform application. Judges are proscribed from sitting on both a criminal case and a compensation proceeding based on the same facts, and the results of criminal cases are divorced from compensation proceedings except in the case of conviction of an offender for a crime alleged in a claim, in which case the conviction may be taken as conclusive proof of the occurrence of the crime.

This is the essence of the administration of the program. It is a blend of the National Council of State Governments' court-system alternative and the district court system of the Commonwealth. Courts are selected for the reasons set out

in the text of this report.

The district court system in particular was selected because it is felt, on the one hand that greater decentralization of the funcion than would be possible with the Superior Court system would result, and further decentralization of the load would reduce both administrative costs and inconvenience to participants. On the other hand the Superior Court is already heavily overtaxed.

Section 4. (Eligibility for Compensation)

The victim of a crime or a dependent of the victim in case of death are eligible for compensation. Persons not eligible for compensation are specifically listed. These are people who have close relations with the offender. This insures that no one may benefit from a crime in which he may be indirectly involved.

Section 5. (Filing the claim, Rights and Duties of Claimant)

There is a detailed description of the procedure to be followed in filing a claim. Claims can be filed only by those eligible to receive compensation or by a parent

or guardian if the person is a minor or is incompetent.

A limit of one year after the crime was committed or ninety days after the victim's death is given as the maximum time for filing claims. The Court is given the right to extend this limit if there is a good reason. This would allow the court to deal with unusual circumstances with flexibility.

The Office of the Clerk of the Court must immediately notify the Attorney

General upon receiving a claim.

The Attorney General is given continuing authority to investigate compensation claims and may present information supporting or opposing the claimant.

Claimant may give evidence on his own behalf or may retain counsel.

The Court may determine the attorney's fees. This fee may be taken out of claimant's compensation. The attorney may in no way receive more than the amount allowed by the court. A limit of fifteen percent of the total compensation may be awarded to the attorney, thus insuring that claimant retains the greater part of his compensation.

Claimant must submit all available medical reports relating to his injury. The court can order reports of the victims previous medical history. In the case of

death, an impartial medical expert may be called in.

If two or more people are entitled to compensation, the court is given the power to apportion it.

Section 6. (Compensation)

Compensation cannot be paid unless claimant has incurred a minimum out-of-pocket loss of one hundred dollars or has lost at least two weeks' continuous earnings. Out-of-pocket loss is defined as unreimbursable expenses resulting from services necessary because of the injury. All expenses under the minimum requirements are to be deducted from the final award. This is designed to discourage a victim from filing an exaggerated or fraudulent claim.

Before compensation can be paid, the court must find that a crime was committed, that the injury or death of the victim was a direct result of the crime, and that the crime was promptly reported. The key point is that the crime must

have "directly resulted in personal physical injury."

Total compensation may not exceed the amount of out-of-pocket expenses plus loss of earnings or support as a result of injury. Compensation may not exceed ten thousand dollars in the aggregate.

Section 7. (Determination of the Amount of Compensation to be Paid)

The Chief Justice of the District Court and the Chief Justice of the Municipal Court in Boston are given the task of setting up uniform standards of application. In so doing, the Court must take into consideration the amount of compensation payable under other laws in Massachusetts and of the United States as well as the amount of available funds.

The amount of compensation paid is to be reduced if claimant receives compensation for his injury from the offender, from insurance, from public funds, or from an emergency award. Reduction in the amount of compensation may be made if the court holds that the victim contributed to his injury except in instances of

prevention and apprehension.

Section 8. (Emergency Compensation)

Up to five hundred dollars in emergency payment may be made prior to final settlement in cases of great hardship. This amount is to be deducted from the final compensation. If final compensation is less than the emergency compensation, or if no final compensation is given, repayment must be made by the claimant.

Section 9. (Subrogation)

The state has the right of action to recover payments on losses resulting from the crime for which compensation is given. It is the responsibility of the Attorney General to take any required legal action.

"Section 10" (Major Section 2) (Appellate Jurisdiction)

The recently created appellate division of the district courts is given authority to determine appeals on questions of law arising from compensation claims.

"Section 11" (Major Section 3) (Effective Date)

The effective date is postponed until the first of January, 1968, to provide for an orderly transition to the compensation of victims. The courts are explicitly required to set up the necessary procedures sufficiently in advance of the effective date, to further insure that eligible victims will be compensated without delay.

Appendix A

AN ACT TO PROVIDE FOR THE COMPENSATION OF VICTIMS OF VIOLENT CRIMES

Section 1. The General Laws are hereby amended by inserting after chapter 258 the following new chapter:

CHAPTER 258A

Compensation of Victims of Violent Crimes

Section 1. The General Court recognizes that many innocent persons suffer personal physical injury or death as a result of criminal acts. Such persons or their dependents may thereby suffer disability, incur financial loss, or become dependent upon public assistance. The general court finds and determines that there is a need for the financial assistance of the commonwealth for such victims of crime. Therefore, it is the intention of the general court that reparation, aid, care and support be provided by the commonwealth, as a matter of grace, for such victims of violent crimes.

Section 2. The following words as used in this chapter shall have the following

meanings, unless the context requires otherwise:

"Crime", an act committed in the commonwealth of Massachusetts which would, if committed by a mentally competent, criminally responsible adult, who has no legal exemption or defense, constitute a crime as defined and proscribed by statute or at common law; provided that such act involves the application of force or violence or the threat of force or violence by the offender upon the victim; and further provided that no act involving the operation of a motor vehicle which results in injury shall constitute a crime for the purpose of this chapter un'ess the injuries were intentionally inflicted through the use of the motor vehicle.

"Dependent" includes mother, father, spouse, spouse's mother, spouse's father,

child, grandchild, adopted child, illegitimate child, niece or nephew, who is wholly or partially dependent for support upon and living with the victim at the time of his injury or death due to a crime alleged in a claim pursuant to this chapter.

"Family" includes spouse, parent, grandparent, step-mother, step-father, child, grandchild, brother, sister, half-brother, half-sister, adopted children of parent,

or spouse's parents.

"Offender", a person responsible for a crime.

"Victim", a person who suffers personal injury or death as a direct result of a crime.

Section 3. The district courts and the municipal court in the city of Boston shall have jurisdiction to determine and award compensation pursuant to this chapter to victims of crimes.

The chief justice of the district courts shall make uniform rules applicable to said courts and the chief justice of the municipal court of the city of Boston, shall make rules applicable to that court, providing for a simple, informal and inexpensive procedure for the determination, according to the rules of substantive law, of claims for compensation. Actions under this chapter shall be brought in the judicial district where the claimant lives. In no case may any judge who has heard any criminal case arising from a crime alleged in a claim drawn pursuant to this chapter sit in determination of such claim, and no judge who has heard such a claim may sit in a criminal case arising from a crime alleged therein. Failure to prosecute or to prosecute successfully an offender in a criminal case shall not in any way prejudice the claim of any eligible claimant unless the failure is due to the provocation of the offender by the victim.

Section 4. Except as hereinafter provided, the following persons shall be eligible

for compensation pursuant to this chapter:

(a) a victim of a crime.

(b) in the case of the death of the victim, a dependent of the victim

Provided, however, that any offender or an accomplice of an offender, a member of the family of the offender, a person living with the offender or a person maintaining sexual relations with the offender shall in no case be eligible to receive compensation with respect to a crime committed by the offender.

Section 5. Claims for compensation may be filed by a person eligible to receive compensation under this chapter, or if such person is a minor or is incompetent,

by his parent or guardian.

Claims must be filed not later than one year after the occurrence of the crime upon which the claim is based, or not later than ninety days after the death of the victim whichever is earlier, provided however, that upon good cause, the court may extend the time for filing either before or after the expiration of the filing

period hereinbefore provided for.

Claims shall be filed in the office of the clerk of the court in person or by mail, and said claim shall be accompanied by a fee of five dollars, which fee may be included in the out-of-pocket expenses under this chap'er. Said clerk shall immediately notify the Attorney General of the claim. Such notification shall be in writing, with copies of such material as is included in the claim or in support thereof, and the date and time for which any hearing on the claim is to be held. The Attorney General is hereby directed to investigate any claim, prior to the opening of formal court proceedings, and periodically investigate subsequent to a favorable decision, for the purpose of determining whether or not the situation warrants the continuation of remuneration. Said clerk shall also notify the claimant of the date and time of any hearing.

The Attorney General shall present any information he may have in support of or in opposition to the claimant. The claimant shall be allowed to present evidence and testimony on his own behalf or may retain counsel. The court may, as part of any order entered under this chapter, determine and allow reasonable attorney's fees, which shall not exceed fifteen per cent of the amount awarded as compensation under this chapter, to be paid out of but not in addition to the amount of such compensation, to the attorney representing the claimant. No such attorney shall ask for, contract for, or receive any larger sum than the

amount so allowed.

In order to be eligible for compensation under this chapter, the person filing a claim shall, prior to any hearing thereon, submit reports, if reasonably available, from all hospitals, physicians or surgeons who have treated or examined the victim in relation to the injury for which compensation is petitioned at the time of or subsequent to the victim's injury or death. If, in the opinion of

the court reports on the previous medical history of the victim, examination of the injured victim and a report thereon or a report on the cause of death of the victim by an impartial medical expert would be of material aid to its just deter-

mination, the court shall order such reports and examination.

Section 6. No compensation shall be paid pursuant to a claim unless the claimant has incurred a minimum out-of-pocket loss of one hundred dollars or unless the claimant has lost at least two continuous weeks' earnings or support. Out-of-pocket loss shall mean unreimbursed or unreimbursable expenses or indebtedness reasonably incurred for medical care or other services necessary as a result of the injury upon which such claim is based. One hundred dollars shall be deducted from any award granted under this chapter.

No compensation shall be paid unless the court is satisfied that (a) a crime was committed, (b) such crime directly resulted in personal physical injury to, or the death of, the victim, and (c) police records show that such crime was promptly reported to the proper authorities; and in no case may compensation be paid where the police records show that such report was made more than forty-eight hours after the occurrence of such crime unless the court finds said

report to the police to have been delayed for good cause.

Any compensation paid pursuant to this chapter shall be in an amount not exceeding out-of-pocket expenses, including indebtedness reasonably incurred for medical or other services necessary as a result of the injury upon which the claim is based, together with loss of earnings or support resulting from such

injury.

Any compensation paid for loss of earnings or support shall, unless reduced pursuant to other provisions of this chapter, be in an amount equal to the actual loss sustained; provided, however, that no such award shall exceed ten thousand dollars. If there are two or more persons entitled to compensation as a result of a death of a person which is the direct result of a crime, the compensation shall be apportioned by the court among the claimants in proportion to their loss.

Section 7. For the purpose of determining the amount of compensation payable pursuant to this chapter, the chief justice of the district court and the chief justice of the municipal court in the city of Boston shall, insofar as practicable, formulate standards for the uniform application of this chapter. The court shall take into consideration the provisions of this chapter, the rates and amounts of compensation payable for injuries and death under other laws of the commonwealth and of the United States, excluding pain and suffering, and the availability of funds appropriated for the purpose of this chapter. All decisions of the court on claims filed under this chapter shall be in writing, setting forth the names of the claimant, the amounts of compensation and manner of payment, if any, and the reasons for the decision. Said decision shall be filed with the clerk of the court having jurisdiction and with the chief justice of the district court or the chief justice of the municipal court in the city of Boston, whichever applies; and the clerk of the court in which the claim is determined shall immediately notify the claimant in writing of the decision.

Any compensation paid pursuant to this chapter shall be reduced by the amount of any payments received or to be received as a result of the injury (a) from or on behalf of the offender, (b) under insurance programs, (c) from public funds, or (d) as an emergency award pursuant to the provisions of this

chapter.

In determining the amount of compensation payable, the court shall determine whether because of his conduct, the victim of a crime contributed to the infliction of his injury; and the court shall reduce the amount of the compensation or deny the claim altogether, in accordance with its determination. Provided, however, that the court may disregard for this purpose the responsibility of the victim for his own injury where the record shows that such responsibility was attributable to efforts by the victim to aid a victim, to prevent a crime or an attempted crime from occurring in his presence or to apprehend a person who had committed a crime in his presence or had in fact committed a felony.

Section 8. Notwithstanding other provisions of this chapter, if it appears to the court, prior to taking final action on a claim, that (a) such claim is one with respect to which compensation probably will be paid, and (b) undue hardship will result to the claimant if immediate payment is not made, the court may provide for payment of emergency compensation to the claimant pending a final decision in the case, provided, however, that (a) the amount of such emergency compensation shall not exceed five hundred dollars, (b) the amount of such emergency compensation shall be deducted from any final compensation to be

paid the claimant and (c) the excess of the amount of any such emergency compensation over the amount of compensation finally determined, or the amount of the emergency compensation if no final compensation is granted, shall be

repaid by the claimant to the commonwealth.

Section 9. Acceptance of any compensation paid pursuant to this chapter shall subrogate the state, to the extent of such compensation paid, to any right or right of action accruing to the claimant or to the victim to recover payments on account of losses resulting from the crime with respect to which the compensation has been paid. The attorney general may enforce the subrogation, and he shall bring suit to recover from any person to whom compensation is paid, to the extent of the compensation actually paid under this chapter, any amount received by the claimant from any source exceeding the actual loss to the victim.

Section 2. The first paragraph of section 108 of chapter 231 of the General Laws is hereby amended by striking out the first sentence and inserting in place thereof the following sentence: There shall be an appellate division of each district court for the rehearing of matters of law arising in civil cases therein and claims for compensation for victims of violent crimes as provided for in

chapter two hundred and fifty-eight A.

Section 3. This legislation shall become effective on the first day of January, nineteen hundred and sixty-eight. Furthermore, the courts shall promulgate the rules and establish the procedures herein required, on or before the first day of December, nineteen hundred and sixty-seven.

APRIL 5, 1971.

Hon. ROBERT LIST,

Attroney General, State of Nevada, Carson City, Nev.

DEAR MR. ATTORNEY GENERAL: Enclosed is a copy of S. 750, a bill I introduced recently in the Congress, together with a brief section-by-section analysis of its provisions. This proposal would create a compensation program for victims of

crime within the federal jurisdiction.

Because the State of Nevada has a program that compensates victims of crime—though in effect for only a short time—I would appreciate very much your comments on S. 750. In your appraisal, I would hope you could include such matters as a general comparison of the features of S. 750 with the program presently operating in your State. For the implementation of a plan at the federal level, it would be most helpful also to have specific suggestions based upon your State's experience with such a program, including the costs of the program.

You will note that S. 750 proposes as well to assist in underwriting the costs of comparable compensation systems within State criminal jurisdictions throughout the nation. I would thus appreciate your views on how best to meet this objective. Finally, any other thoughts you may have on this matter would be greatly appreciated. I would be gratified also if you could report on this—at

least in a preliminary way—within a month.

Thank you very much for your cooperation in this matter.

Yours very truly,

MIKE MANSFIELD, U.S. Senate.

OFFICE OF THE ATTORNEY GENERAL, Carson City, Nev., September 17, 1972.

Hon. MIKE MANSFIELD,

U.S. Senator, Office of the Majority Leader, Washington, D.C.

DEAR MR. MANSFIELD: Upon receipt of your letter of April 5, 1971, this office gave considerable study to the comparison of S. 750 with the provisions of Chapter 217 of Nevada Revised Statutes. The Nevada Act does not provide compensation for victims of crime per se, but only for injury or death resulting from an attempt to prevent the commission of a crime or to arrest a suspected criminal or to aid or attempt to aid a police officer to do so.

The Nevada law was enacted as an incentive to involve the citizenry in supporting and upholding the criminal law and to aid and encourage them to come to the aid of victims of crimes. As you are undoubtedly aware there has been a great amount of publicity concerning cases where persons and witnesses stand idly by watching assault, robbery, rape or murder occur, and through fear of injury to themselves have not come to the aid of the victims; and many times have not even bothered to summon the police. The Nevada law was passed to discourage such conduct and to encourage involvement by the citizens.

The bill which you propose appears to only compensate the victims of certain crimes enumerated in the bill. While these victims are certainly to be pitied and sympathized with, this office does not feel it is the responsibility of the Government, either State or Federal, to make them completely whole for whatever

loss they may have suffered.

To date six claims have been filed seeking compensation, three of which have been paid, each in the amount of \$5,000. The first claim was submitted by a former police officer who tried to knock the gun out of the hands of a person robbing a hotel. He sustained damages in excess of \$5,000 and received an award of \$5,000. The second claim was submitted by a man passing down the street who saw an elderly man being pistol-whipped and went to his defense. In doing so, the man sustained damages in the amount of \$20,000 and received an award of \$5,000. The third claim was submitted by an owner of a restaurant who found his manager being held at gun point and attempted to disarm two criminals. As a result he was shot in the stomach. He claimed \$30,000 damages and was awarded \$5,000.

I hope this will be of assistance to you.

Very truly yours,

ROBERT LIST, Attorney General.

March 25, 1971.

Hon. Louis Lefkowitz, Attorney General, State of New York, Albany, N.Y.

Dear Mr. Attorney General: Enclosed is a copy of S. 750, a bill I introduced recently in the Congress, together with a brief section-by-section analysis of its provisions. This proposal would create a compensation program for victims

of crime within the federal jurisdiction.

Because the State of New York has a program that compensates victims of crime, I would appreciate very much your comments on S. 750. In your appraisal, I would hope you could include such matters as a general comparison of the features of S. 750 with the program presently operating in your State. For the implementation of a plan at the federal level, it would be most helpful also to have specific suggestions based upon your State's experience with such a program, including the costs of the program.

You will note that S. 750 proposes as well to assist in underwriting the costs of comparable compensation systems within State criminal jurisdictions throughout the nation. I would thus appreciate your views on how best to meet this objective. Finally, any other thoughts you may have on this matter would be greatly appreciated. I would be gratified also if you could report on this—at

least in a preliminary way—within a month.

Thank you very much for your cooperation in this matter.

Yours very truly,

MIKE MANSFIELD, U.S. Senate.

EXECUTIVE DEPARTMENT,
CRIME VICTIMS COMPENSATION BOARD,
Albany, N.Y., April 26, 1971.

Re C. 750 to provide for the compensation of persons injured by certain criminal acts, to make grants to States for the payment of such compensation, and for other purposes.

Senator Mike Mansfield, U.S. Senate, Office of the Majority Leader, Washington, D.C.

DEAR SENATOR: Reference is made to letter of April 1, 1971 advising that I would attempt to answer your inquiry of March 25th concerning your bill above mentioned. First, I believe that a few remarks concerning the proposed bill and calling your attention to several things that may be of interest and that you may want to consider should be made.

1. From a reading of your bill it would appear that all claims filed must receive a hearing before the full commission. Section 627, subd. 1 of the Executive Law of the State of New York, provides for this assignment, by the chairman, to a Board Member or himself. Subd. 4 of the same section allows the Board Member to make a decision upon the basis of papers filed in support of the claim and the report of the investigation without the necessity of a hearing.

2. Section 102, subd. 1, is the definition of a child. This may preclude an award where the child has not reached the age of majority, namely, 21 years who could be a cripple, mentally retarded or otherwise physically unable to support himself. Social Security allows payments to a person until his 22nd birthday if he meets certain qualifications, such as, being enrolled as a full time student.

3. Section 301 fails to make a provision for police records. Our statute, Section 631, subd. 1, provides that no award can be made unless amongst other things there are police records to show the crime was promptly reported to the proper authorities and in no case can an award be made where the police record was made more than 48 hours after the occurrence of the crime unless the Board for good cause finds the delay to have been justified. This 48 hour provision has been waived many times due to the injuries and sometimes where the police have failed to actually make a written report although a police officer was on the scene or interviewed the victim in the hospital.

4. Section 305 provides the nature of the compensation without any minimum eligibility requirements such as set forth in our statute Section 626 of at least \$100 out-of-pocket medical expenses or two weeks continuous loss of earnings or support. The committee that worked on our statute believed that small claims which did not meet this minimum requirement not only would be voluminous but im-

practical because of the cost of administration and/or investigation.

5. Section 307, subd. c, eliminates only a common-law wife. Our statute Section 621, subd. 4, defines family to prevent unjust enrichment. This includes any person related within the third degree of consanguinity or affinity, any person maintaining a sexual relationship with such person or any person residing in the same household with such person.

6. Section 308, subd. a, provides for payment as the commission deems appropriate. It is, therefore, unclear as to whether these are lump sum payments or periodic payments. Under our statute, Section 632, we make not only lump sum payments but in the death claims and/or protracted personal injuries claims, we make monthly payments so long as the disability and/or dependency status remains the same. This, of course, requires periodic reinvestigations and checks.

7. Section 308, subd. b, provides what payments may be deducted from such an award. Our statute. Section 631, subd, 4, provides for any funds received from

a. Offender

b. Under insurance programs mandated by law

c. Under any contract of insurance wherein the claimant is the insured or

beneficiary as well as any emergency award.

8. Section 401, subd. a, grants the Attorney General the power to institute an action against a person for recovery of all or part of the award. Our statute has a separate section, 634, which subrogates the State to the extent of any award made. This generally leaves it to the claimant to pursue his own action. We have had a number of claims where the claimant has, or is now prosecuting, a civil action. Our statute takes the burden off the Attorney General unless there are reasons shown where the offender may have assets that can be reached.

9. Emergency Awards. Section 630 of our statute provides and allows a Board Member to make an emergency award. We have found this very useful where the victim was about to be evicted from his home and/or was being pursued by creditors, such as doctors, hospital or others for medical treatment. We endorse having this provision of the law to step in and to aid these unfortunate victims.

There are several questions that arise under Title 5 Violent Crime Compensation Grants and their authorization. As you are well aware, there are now five states that have a statute providing for the payment of compensation to innocent victims of crime. As far as the writer knows only the State of Hawaii provides for any compensation for pain and suffering. Maryland, as well as New York, has a provision that before an award can be made there must be a finding of serious financial hardship.

If I read Section 503 correctly, it would appear that before any state can qualify all of the requirements of Section 502 would have to be met. It is, therefore, of great concern to New York and I am sure to the other states to

know whether this is true or whether a state can qualify under its own statute which, of course, in our case would reduce the amount of the grant since we provide actually for out-of-pocket expenses and/or loss of earnings and support. There is no maximum as far as unreimbursed medical expenses are concerned and it is our custom and practice to provide in our decision for future medical expenses where it is reasonable to assume that such services will be required. However, when this is not done but it is shown at a later date by competent medical proof that further medical treatment is necessary, we reopen the claim and make an amended decision allowing for the payment of reasonable medical expenses as well as loss of earnings where hospitalization and/or surgery is required.

As you are aware, I am certain, the legislature is presently in session but has passed the Executive Budget making an appropriation for various state agencies and programs. Our request for the fiscal year April 1, 1971 to March 31, 1972 was based upon an expected 2250 claims. The budget contains an appropriation of \$2,637,000, of which \$2,255,000 is for payment to claimants. The difference is

for maintenance and operation expenses as well as personal services.

Over the past four years this Board has been contacted by many states requesting information based upon our operation and experience. There are perhaps 10 states that are pursuing such proposed legislation and I would expect that by the time the legislatures of the various states have adjourned this year we

may very well have several more crime victims compensation plans.

The reason I preface these remarks is that we have found that it is unsatisfactory attempting to put in writing our entire experience. We have found that meeting with representatives of the legislatures and talking has proven much more satisfactory. We have had the states visit us here at the Albany office where the entire operation can be observed, the manner in which claims are handled, investigations made and decisions handled. May I, therefore, on behalf of the Board extend an invitation to you and your staff to visit us for further and/or detailed information.

I should also like to say that the writer will be glad to appear or to meet with you and/or your staff in Washington, D.C., and to have the Executive Secretary

of the Board appear with me.

I shall be interested in hearing from you and you may rest assured that this Board will cooperate in every way.

Yours very truly,

STANLEY L. VAN RENSSELAER, Chairman.

STATE OF NEW YORK

1970

FOURTH ANNUAL REPORT

of the

CRIME VICTIMS COMPENSATION BOARD



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(281)

To the HONORABLE NELSON A. ROCKFELLER

Governor

and

To the HONORABLE LEGISLATURE OF THE STATE OF NEW YORK

I have the honor to submit the Fourth Annual Report of the Crime Victims Compensation Board for the year 1970 rendered pursuant to the provisions of Article 22, Section 623 of the Executive Law.

Respectfully,

Stanley L. Van Rensselaer Chairman

Albany, April 1, 1971

FOURTH ANNUAL REPORT OF THE CRIME VICTIMS COMPENSATION BOARD

TO: HON. NELSON A. ROCKEFELLER GOVERNOR OF THE STATE OF NEW YORK

and

THE HONORABLE LEGISLATURE OF THE STATE OF NEW YORK

SIRS:

We have the honor to submit this our fourth annual report.

1. The claims have increased each year since the inception of the Board. This year there was a total of 1594 claims received and filed. The previous years from 1967 with 196, 1968 with 519 and 1969 with 929 claims graphically shows the enormous increase in this present year.

It is the intention of the report to not only set forth the number of claims, but also the disposition with the decisions, amended decisions and full Board reviews. In addition, there are many claimants who have been given the right to reopen their claim under certain conditions set forth in the decision.

We shall also show the comparison of the number of open claims under investigation at the end of this year, with the protracted and death claims as compared with the previous year. There will also be discussed the additional investigations necessary before amended decisions are made and periodic reinvestigations on both the protracted and death claims. In many instances additional investigation becomes necessary following a full Board review.

2. WORKLOAD — Since this Board was created on March 1, 1967, this report will cover the activities for the year March 1, 1970 through February 28, 1971.

Actually the number of claims received and filed at the Albany office does not fully reflect the workload. There are hundreds of inquiries by

telephone, by letter and by personal appearance at either the New York or Albany office. The increase in the workload and the lack of staff does not permit a record of each inquiry requesting information. It has been the policy of the Board to ascertain whether the claimant is eligible, if unreimbursed medical expenses amount to \$100 after taking into consideration insurance benefits, whether he has lost two weeks continuous loss of earnings, his relationship, if any, to the assailant and his financial resources. It is felt that although it requires considerable more time to screen these inquiries that there is much time saved rather than to simply send a claim form.

In addition, and perhaps equally important, in following this procedure is the fact that a claim is not accepted for filing when it is clear that the claimant would not be eligible. This obviates disappointment if his claim would be disallowed for any one of the above reasons.

Many claimants feel all that is needed is to advise the Board that they are the victim of a crime and request a certain number of dollars covering their personal property, cash lost and even damage to their real estate.

There is set forth a listing by month for the past two years and the present year a schedule which reflects the increase in the number of claims:

	3/1/70-2/28/71	3/1/69-2/28/70	3/1/68-2/28/69
March	110	75	27
April	119	67	24
May	117	54	45
June	115	49	36
July	95	52	33
August	116	92	53
September	153	78	39
October	161	82	47
November	157	67	37
December	149	73	52
January	169	139	61
February	133	101	65
	1594	929	519

It is interesting to note that less than 20% of the claims filed were by attorneys acting for the claimant. The majority of the attorneys appearing are in death claims.

As can be expected the greater majority of the claims filed are from the New York City Metropolitan area. Approximately one-third are upstate claims and two-thirds are from New York City area.

The publicity having been given to this Board has been much greater in the city than upstate and this would appear to be one of the reasons for the disparity.

3. **OPEN CLAIMS** — There were 771 claims under investigation as of February 28, 1971, as compared with only 278 on February 28, 1970. This large blacklog is due partially to the fact that we do not have sufficient personnel in the New York City office. At the present time there are two Grade 17 senior investigators and five Grade 13 investigators. Due to the number of claims under investigation in the New York City office the Board felt that it was necessary to assign one of the senior investigators as an acting supervisor and the other senior investigator to aid him and investigate the more difficult and involved claims.

This leaves five Grade 13 investigators and each is presently assigned in excess of 100 claims. There are still open claims that have not been assigned as it is unrealistic to expect any investigator to handle that number. The experience of the Board has shown that 40 to 45 is the maximum number any one investigator should be assigned. With a normal work month having 22 days, it can not be expected that an investigator, except under unusual circumstances, can complete the investigation of more than 12 to 15 claims.

It must also be recognized that since no award can be made unless there is a finding of serious financial hardship it is the responsibility of the Board to complete its investigation as promptly as possible. Certainly any claimant entitled to an award needs the money within a reasonable time and not a year later. The Board has received many telephone calls and letters, as well as letters to the Governor, inquiring why, after having filed a claim several months previously, they have not received an award.

The Albany office which covers all of the state except the metropolitan area presently has one senior investigator and two Grade 13 investigators. To date these investigators have been able to handle the claims even though a substantial number of their work days are consumed in travelling. It is hoped that the present staff will be able to continue to keep abreast.

- 4. TYPES OF CRIME Approximately 60% of the personal injuries claims are assaults, excluding stabbing, and/or robberies; 12% are death claims; another 12% were knife wounds; another 12% bullet wounds and the rest miscellaneous, such as, rape and motor vehicle violations of law.
- 5. INVESTIGATIONS The investigation required on claims is carefully determined beginning with the receipt of the claim in the Albany office. Each claim form before it is entered in the log book is examined to determine if, there is an eligible claimant, whether a crime has been committed, personal physical injuries sustained, whether it was reported to the police authorities and whether there is at least \$100 unreimbursed medical expenses and/or two weeks continuous loss of earnings.

Where a claim form does not show the minimum requirements it is returned with an explanation advising the claimant, however, that if he does have unreimbursed medical of at least \$100 or two weeks loss of earnings that the same should be stated in the claim form and returned.

Each claim is carefully examined to determine not only the above, but if the person filing the claim is one eligible under the statute to receive an award.

If it appears that the claim meets the statutory requirements, it is then assigned to an investigator. It becomes his duty to analyze the claim for the purpose of determining not whether a full investigation is required, but rather what should be done in the first instance. Each claim must be so analyzed and each investigator has been instructed that until those essential elements of the statute are satisfied no further investigation should be conducted. As an example, it can be seen many times from an examination of the claim that the occupation as listed might very well not be a person who would suffer serious financial hardship. Accordingly, if the financial resources are immediately ascertained from the claimant and it can be determined that there will not be serious financial hardship there is no need to continue the investigation.

As above stated, if a claimant is entitled to any award then every effort should be made to bring the investigation to completion so that a decision may be rendered. The reason being that after the decision is made, the claimant has 30 days in which to advise whether he accepts or rejects the decision requesting a hearing before the full Board. If he accepts then the decision must go to the Attorney General and Comptroller who have 30 days in which to approve or reject the decision. We have requested the

legislature to reduce to 15 days this period. Following that a warrant must be prepared for the Comptroller and it is another two to three weeks before the checks are issued.

Of course, no investigation can proceed until after the district attorney advises that he approves of the investigation or fails to answer within 10 days. Accordingly, during this period only the acknowledgement letter to the claimant requesting whatever information is desired of him and a letter is sent to the doctor, hospital and employer.

Personal interview with the claimant in the initial stage has been found to be very productive. All investigators have been requested to contact and arrange for an interview with the claimant before undertaking a full investigation. It should also be noted that each claimant is advised that this Board is not his adversary. He is advised that this Board is interested in obtaining all of the facts whether it be in his favor or not. Every expense as well as the loss of earnings is verified. The claimant is also advised that his cooperation in furnishing information requested as soon as possible will be to his advantage. However, there are many claimants who for unknown reasons refuse to comply with the requests and since no decision can be made without the information they are given a second chance to furnish the same. The second letter advises the claimant that unless he does furnish this information there can be no award granting him any benefits.

The most extensive investigations are those where there is a question of provocation. The police departments and the district attorneys' offices have been cooperative in all investigations but have been most helpful in this type. There are many times when the investigator in the field is unable to find any witnesses and the police and the district attorneys have allowed this Board to examine their files and even furnish copies of statements and/or depositions taken from witnesses that were interviewed immediately following the incident.

There are delays that are unavoidable in a number of instances. Whenever a claimant was injured while at his place of employment no final determination can be made until after the Workmen's Compensation Board makes a ruling. In death claims there can be no award made until after the Social Security benefits are determined. This is also true in the protracted disability claims.

Perhaps one of the greatest delays occurs where Blue Cross and/or Blue Shield or other insurance companies have not determined the amount

payable by them. Some hospitals only submit their bills to Blue Cross on a quarterly basis.

The Board has found that letters with appropriate forms requesting information brings results within a reasonable time in most cases.

The Board Members have made decisions where loss of earnings were known but the medical expenses had not been determined. The decision allows the medical bills to be submitted later. Thus, claimants receive an award for loss of earnings without waiting several months.

The Board feels that this has been most helpful to the claimant or in the death claim to the survivors, since they are the ones who are presently in need of funds.

6. **DISPOSITION OF CLAIMS** – There were 1090 decisions by the Board Members in which 458 claimants received awards and 632 claimants received no awards.

The provisions of the statute accounted for the disallowance in many cases. There were 161 in which the claimant did not meet the minimum requirements. Another 177 failed to furnish the information requested. It has been and will continue to be the policy of this Board to place the responsibility upon the claimant to furnish information over which he has control or has in his possession. It has been found that many claimants refuse to divulge their financial resources claiming that it is an invasion of their rights.

The most difficult problem still continues to be determining the question of serious financial hardship. Many of the elderly people who are retired, who have worked many years, have been frugal and have saved money to take care of them in their declining years represents one group that the Board feels should be reimbursed for their medical expenses. However, the statute makes no distinction and, therefore, with substantial savings the statute does not permit an award to these elderly persons.

Another segment of our society is the middle income man who has supported his family, has been gainfully employed and is not only a respectable but responsible citizen. This claimant feels that having been a law-abiding citizen who has worked hard and paid his taxes he is entitled to receive his unreimbursed medical expenses and his loss of earnings

within the limitations allowed by the statute. This Board continues to feel that these two classes of individuals should be compensated.

The Board members have discussed this matter of serious financial hardship to try to determine, within the framework of the statute, justification to make awards. However, the Board recognizes the mandate in the statute and considers each claim on its own merits to attempt to see that those people, particularly these two classes, are given every consideration. There is set forth a schedule showing the reasons for the disallowance of claims:

3371 . 1 3

Withdrawn	61
Member of Family	6
Provocation	4
No principal support	15
No minimum requirements	161
No serious financial hardship	93
No crime	19
No police report	28
Workmen's Compensation pending	19
Claimant ineligible	10
Failed furnish information	177
Over 1 year	14
Duplicate claim	2
Claimant deceased	7
Death not due to crime	2
Civil Action pending	4
No physical injury	2
Crime undetermined	1
*Good Samaritan	1
Unable to locate claimant	3
Police report delay unjustified	1
New claim filed	1
Medical proof to be submitted	
if related to crime	1

*Claimant filed under New York City Good Samaritan Law.

The personal injury claims represent 80% and protracted 10% of the total claims and the balance, or 10%, were death claims.

The average personal injuries or lump sum claim has increased over the preceding year and this year is \$1930.00. The average death award which is pay, ble over a 12 month period was less than the previous year and this year was \$2040.00 The protracted awards were down over the previous year and this year the average award payable over a 12 month period was \$3450.00. This does not take into account the increase in medical expenses which is substantial. It was necessary prior to the end of this year to request \$100,000. in the deficiency budget, all of which was used in the payment of awards. The hospital and medical expenses continue to rise. These additional medical expenses are incurred following the original decision and in most instances is provided for in the original decision. It is anticipated that during the coming year the average for each type of claim will increase. This is due to new labor contracts increasing wages, as well as the increased costs of medical care.

The Board in following the statute reduces the award by any sum received by the claimant from any source. There were claimants and attorneys who objected strenuously when Blue Shield or other insurance monies for which they had paid the premium were deducted. The Board determined that since there was only the balance left for the claimant to pay only that amount could be allowed. Accordingly, the Board asked the legislature to amend the statute so that any amount received under any contract of insurance where the claimant is the insured or beneficiary can be deducted. This is now specifically set forth in the statute.

In determining the loss of earnings and/or support the Board has continued to make awards only for the net earnings or take-home pay of the claimant or in the case of death to his survivors.

In the death case the loss of support is arrived at by deducting the deceased's personal expenses as well as Social Security benefits, Workmen's Compensation or pensions. This is in accordance with the statute which mandates that only the actual loss of earnings or actual loss of support may be granted.

7. **DEATH AND PROTRACTED CLAIMS** – The Board has followed the statute in providing for monthly payments in both the death and protracted claims.

The protracted claims have continued to increase as well as the death claims as will be seen from the schedule set out below.

This requires additional periodic investigation to determine whether the claimant is still disabled as a direct result of the injuries he received in the incident. The claimant is contacted and a doctor's report is obtained. In many instances the Board's doctor examines the claimant to verify his disability. There is also a check as to whether he is gainfully employed or has returned to his former position. Unless the investigation reflects this inability to work due to his injuries the payments are stopped.

The death claims require reinvestigation to determine if the dependency is the same as when the decision was made.

With the increase over the previous year and the expected increase during the coming year the amount of time required by the staff is substantial. However, the Board feels that any and all efforts to make a correct determination is money well spent. It has been found that although a person has returned to work he has failed to notify the Board although advised previously that it was his duty and responsibility to do so. It must be said, however, that the great majority of the claimants are honest and advise the Board promptly. The following schedule shows the increase this year over the two previous years:

	2/28/69	2/28/70	2/28/71
Death	22	56	100
Protracted	28	63	112
Total	50	119	212

We shall continue to provide for monthly payments in these two types of claims since this procedure not only follows the statute but is also in the best interest of both the state and the claimants and/or survivors.

8. AMENDED DECISIONS — Reasons have been afforded in which original decisions were amended to make provision for both additional medical expenses and loss of earnings. Although the Board Members, wherever there is probable reason to believe there will be further medical expenses, have provided for the same in the original decision there are many times when this can not be done. Accordingly, it has been necessary in 59 claims to prepare and make amended decisions following the reinvestigation to verify the medical expenses and/or loss of earnings.

There were 5 claims where amended decisions were made following investigations in which no award or further allowance was made. In each of the other 54 claims there were additional monies awarded.

9. **RIGHT TO REOPEN** – There are several reasons in which claimants are given the right to reopen their claim at some future date.

Generally this occurs where in the death claims at the time of the original decision there could not be a finding of serious financial hardship. It has been the Board's policy to allow a claimant to apply to reopen where it can be reasonably anticipated that the assets at the time the original decision was made would not be sufficient for the support for the normal life expectancy.

This policy was developed during the previous year.

It should be noted, however, that when the right to reopen is given to the claimant, the Board requires that the assets available at the time the decision was made have been used for the care, maintenance and/or support and education of any children and have not been wasted or dissipated. Proof is also required as to what, if any, assets the claimant has received from the date of the decision up to and including the time when the request for reopening is granted.

During this year this right has been granted to 61 claimants.

10. FULL BOARD REVIEWS — There were 17 days in which full Board reviews were held and a total of 88 claims were heard.

There were 47 decisions that were affirmed, 15 in which there was a reversal of the original decision and an award made and 18 were reopened for investigation.

There are many requests for full Board reviews made but were not granted immediately for the reason that certain information had not been furnished prior to the decision. Claimants were, therefore, advised that if they care to submit this information which had not been furnished that an investigation would be directed to verify the same. Wherever this has been possible an amended decision has been written incorporating the additional information and investigation. In many of these instances the amended decision even though no award was made has satisfied the claimant.

12. **RULES** – There has been no amendment to the rules since the last annual report.

The policy set forth in the last annual report has been followed.

The Board has continued to study and discuss the problems that are presented with the statutory provision of serious financial hardship. As has been set forth hereinbefore the elderly and the middle income groups are the ones that appear to be adversely affected under this provision of the statute.

13. FORMS AND PROCEDURES — The Board in concert with the staff has continued to review our investigative procedures in an attempt to streamline them.

As has been set forth before in this report, we have attempted to screen out those claimants who do not meet the minimum eligibility of the statute. This we will continue to do for the reasons stated in the discussion under INVESTIGATIONS.

We shall continue the policy of holding the claimant responsible for furnishing that information which he has. We shall also continue to make payment for unreimbursed medical expenses directly to the creditors.

14. CRIME VICTIMS COMPENSATION BOARD — The awards which are made by the Board to innocent victims of crime provide the victim with his loss of earnings in order that he may maintain himself and his family as well as to assume payment for the unreimbursed medical expenses.

In addition to the declaration of policy and legislative intent, there are other compelling reasons for this program.

Social welfare justification to compensate innocent victims of crime is the straightforward approach. The state has recognized its responsibility to the disabled veteran, the sick, the unemployed and the aged. Thus, it follows logically that the state should recognize a responsibility to those victims of crime who have suffered personal physical injuries through no fault of their own.

Attention is again called to the declaration of policy and legislative intent which states that aid, care and support be provided by the state as a

matter of grace. This declaration takes into consideration not a class but rather individuals. The state recognizes that it is the individual who is important. This has been demonstrated by many claimants who have written the Board as well as the Governor.

One letter from a claimant in commending the Board for its prompt, equitable and understanding treatment adds that "programs such as this helps to restore one's faith in his fellow man".

Another one wrote stating, "It is indeed gratifying to find that someone does care".

A crime compensation plan aids in bettering the statistics of crimes reported. Our statute provides that no award may be made unless the crime is reported to the proper authorities within 48 hours. This may be waived upon a showing of good cause. It is accepted that there are many crimes that are not reported to the police. Since this statute directs the reporting of a crime it should lead to better law enforcement.

Crime compensation programs also aid in the prosecution of criminals. When a victim is fairly treated by society he certainly is more willing to cooperate with the law enforcement officials.

Each year the Board becomes more aware of the general public not only accepting the program of aiding innocent victims of crime, but appear to wish the same to be broadened. A Gallop poll taken on this matter several years ago shows that 62% favored such a program. Perhaps the increasing attention to the rights and privileges of the accused has brought to the public the stark contrast between the criminal and the plight of the victim.

The legislative intent to keep people off the welfare roll has been demonstrated and brought to the Board's attention on more than one occasion. Letters from claimants stating that were it not for the benefits available they would have had no other recourse than to have applied for welfare. Certainly recognizing the dignity of the individual is reason enough to continue and to increase the benefits of this program.

Although there is a small percentage of claims filed by attorneys, we have found that they are not only cooperative but appreciative. Attorneys on many occasions express their appreciation for prompt and fair consideration given the claimant.

The variety of telephone calls and letters received by this Board cover every variety of request. Many are interested in whether they can recover for the loss of their property and others who were hit and run victims. One telephone call, however, stands out above them all. The New York City office received a telephone call from a woman asking for help as she had no one to turn to having been recently robbed and was without food, money or friends. She then stated that she had no other alternative than to take her life. The investigator who was taking the call, after talking with her at great length, discussing her religious beliefs, was able to calm her to a degree that she felt much better and said she would not take her life. Shortly thereafter she called again stating that she had now definitely decided to take her life. While he kept her talking he obtained her name and address and had another investigator in the office alert the police who responded immediately, whereupon she asked to be excused as someone was knocking at her door. The next voice he heard was that of the patrolman. Thus, it can be seen that the Board and the staff are called upon in many and certainly sometimes unique situations.

There are several other states which are proposing a crime victims program and it is expected that there will be several adopted.

There are several provinces of Canada that have a statute, most of them similar to the English scheme. The Dominion of Canada is also making a study looking toward a uniform statute for the Dominion.

There is also a committe of the American Bar Association studying all of the states programs in an attempt to develop a uniform statute.

Although there have been a number of bills submitted to the Congress none has become a reality as yet.

More and more articles are written by law professors, law school students and philosophers which has generated further interest by other states.

The Chairman and Executive Secretary attended a conference in Maryland in the spring of 1970 at which there was represented most of the states who have statutes as well as the provinces and the Dominion of Canada. There was an exchange not only of information, but of the problems that are common to all of the states and a great deal was obtained of value. It was the consensus of the Second International Conference, hosted by the Maryland Criminal Injuries Compensation

Board, that an association be formed. Attending the conference were individuals who have written treatises which have been published in various law school reviews.

The purposes of the association included the exchange of information and a discussion of problems that are common and to furnish to those states which are studying such a program statistics and costs.

15. BOARD AND STAFF — The district attorneys and all law enforcement agencies have continued their full cooperation with this Board.

The staff as well as the Members of the Board and the Executive Secretary have had added duties assigned due to the steady increase in the number of claims. Without the cooperation of each one, this Board could not have processed as many claims.

The Board, with the cooperation of the staff, will continue to investigate and render decisions in as many claims as can be possibly done with our present personnel.

The Board recognizes its duties and responsibilities to innocent victims of crime.

Dated: April 1, 1970

Albany, New York

CLAIRE E. CANNING Secretary to Board STANLEY L. VAN RENSSELAER
Chairman

MAX L. NISSMAN Board Member

P. VINCENT LANDI Board Member



HOUSTON LAW REVIEW

JUSTICE FOR THE VICTIMS OF CRIME

By SENATOR MIKE MANSFIELD

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OFF THE RECORD

JUSTICE FOR THE VICTIMS OF CRIME

By Senator Mike Mansfield*

If the brigand has not been caught, the man who has been despoiled shall recount before God what he has lost, and the city and governor in whose land and district the brigandage took place shall render back to him whatever of his was lost.

If it was a life [that was lost], the city and the governor shall pay one mina of silver to his people.1

Just as violence in our society has continued from times past so, too, does the concept of compensating victims of violence find its roots planted firmly in the early history of mankind. It is out of a deep personal concern for violence and its effects upon our society today that I seek to revive the concept of victim compensation. In doing so, I have not approached this issue as a lawyer or as a student of the law. I have endeavored to view the matter as one who is concerned that recent efforts to stimulate new approaches for stemming, and even reversing, the ever-rising rate of crime and violence have focused too little attention upon the innocent victims. It is to these victims that my compensation legislation, Senate bill 750, is directed.2

To be sure, societies have always suffered the ravages of violent crimes. The earliest reported was Abel's murder at the hands of his brother, Cain. Chronicled daily by the press are crimes of the most heinous nature. In the days of old, punishment was meted out under the dubious rationale of "an eye for an eye, a tooth for a tooth." Presently, our system of justice seems to translate this form of retribution into the consistent abstraction of the state versus the criminal, which often leaves the victim unappeased, the government bogged down in court and the criminal more expert at his trade. At one time, retribution was the fashion and strength—the rule. As social order became more sophisticated, retribution yielded to the action of the group, but the concept of satisfaction for insult or injury remained based on revenge.

By the laws of our society today, the accused is prosecuted for his crime, and if found guilty, punished by the state. The victim, whose cooperation is often essential to the prosecution process, is precluded from inflicting

^{*} U.S. Senator (D., Montana)
1. The Code of Hammurabi, §§ 23-24, cited in C. Johns, The Oldest Code of Laws in the World 6-7 (1903).
2. S. 750, 92d Cong., 1st Sess. (1971). A similar bill was introduced on December 10, 1970. S. 4576, 91st Cong., 2d Sess. (1970).

any type of physical revenge. That is as it should be. But his sole recourse within our federal jurisdiction is to seek damages by instituting civil action against the guilty criminal. At best, this has been an inadequate remedy, considering the financial condition of most perpetrators of violent crime. In fact, a recent survey of victims of violent crimes indicated a bare 1.8 percent of the victims ever collect anything from their attackers. Yet 74.2 percent of the victims experience economic loss, not to mention the physical damage and suffering involved.3

The economic loss and physical pain which accompanies crime is no small matter. Indeed, the President's Commission on the Causes and Prevention of Violence documents the alarming increase in the rate of violent crime. Between 1958 and 1967, for example, violent crimes increased for all ages by 65.7 percent. An even more alarming aspect of these statistics shows that, when the arrest rates for violent crimes are broken down into age groups, there are increases of 222.0 percent among the 10-14 year-olds and 102.5 percent among the 15-17 year-olds.

With the crime rate continuing to rise in such immense proportions, the vociferous cry for law and order has not gone unheeded at the federal level. The United States Senate in the last Congress passed at least 18 major crime proposals.4 In doing so, it increased substantially the assistance to local law enforcement agencies. This assistance helped provide more training for policemen and more and better police equipment. In short, it afforded to the police some badly needed tools in their fight against crime and violence. However, in spite of all its efforts to provide a safer society, Congress failed miserably to consider those citizens injured by crime.⁵

Focusing more attention on the criminal and less on his victim is an inequity of modern society. The origin of this phenomenon is interesting and telling of our English heritage. In early Saxon England there was a two-fold process whereby a criminal was required to compensate his victim and pay a fine to the king as well. Such a system seems to have been a well-balanced recognition of crime as affecting both society generally and the victim

^{3.} Hearings on S. 2936 Before the Senate Committee on the District of Columbia,

^{3.} Hearings on S. 2936 Before the Senate Committee on the District of Columbia, 91st Cong., 1st Sess., at 127 (1969), quoting A. Linden, The Report of the Oscoode Hall Study on Compensation for Victims of Crime 11 (1968.)

4. Crime bills passed by the 91st Congress include: Omnibus Crime Control Act of 1970, Pub. L. No. 91-644, 84 Stat. 1880 (Jan. 2, 1971); Comprehensive Drug Abuse and Control Act of 1970, Pub. L. No. 91-513, 84 Stat. 1236 (Oct. 27, 1970); Organized Crime Control Act of 1970, Pub. L. No. 91-452, 84 Stat. 922 (Oct. 15, 1970); Criminal Justice Act of 1970, Pub. L. No. 91-447, 84 Stat. 916 (Oct. 14, 1970); Postal Reorganization Act of 1970, Pub. L. No. 91-375, 84 Stat. 719 (Aug. 12, 1970); District of Columbia Court Reform and Criminal Procedure Act of 1970, Pub. L. No. 91-358, 84 Stat. 473 (July 29, 1970); Omnibus Judgeship Bill of 1970, Pub. L. No. 91-272, 84 Stat. 294 (June 2, 1970).

5. Actually, the Senate passed a victim compensation program for the District of Columbia, including it as a part of the District of Columbia Court Reform Bill. 116 Cong. Rec. S. 4387 (daily ed. March 24, 1970). The provision was dropped by the Conference Committee on the matter and never became law.

individually. Gradually a system was substituted which put the defendant's life totally at the king's mercy and removed the victim's right to reparation.

Without entering into a detailed recitation of judicial history, this brief explanation is offered to demonstrate that where once the individual victim was the primary force behind the process of redressing private wrongs, he ultimately yielded his responsibility to the state. The state in the form of the king and his ministers willingly accepted this role deciding, apparently, that doing so limited acts of revenge. This permitted a more effective suppression of unplanned or non-state violence and social strife. Secondly, the state's expanded authority offered wider protection.

Whatever the reason, however, the modern result has established the combination of state versus criminal, to the virtual exclusion of the victim. Such a policy abrogates any social contract that is thought to exist between the citizen and his society. The average citizen pays his taxes and obeys the laws imposed by society. In return he expects, some would argue on a contractual basis, to be protected by those laws from illegal acts which result in injury and suffering to him. In short, if society fails in its efforts to provide basic protection, then the social contract has been breached; the citizen has suffered. To him there is no particular non-punishable recourse available other, perhaps, than overt apathy. Reflective of this growing apathy has been the significant increase in the number of cases where victims refuse to become involved; not as witnesses, not to assist the prosecution, not in preventing the crime, not in assisting a police officer. It should be added that this reaction is not limited to the immediate victim but is extended to witnesses, to the victim's relatives, to his friends, and neighbors. This is not surprising, if you recognize the fact that less than 2 percent of the victim population ever received any type of restitution.

Overt apathy or non-participation by citizens in regulatory functions of society may become a critical problem during the last quarter of the 20th century. Whereas our technology has grown, our interactions have increased, and our communications have expanded, an increased need for recognized social responsibility by all citizens has become a necessity. In the past Horace Greeley's admonition to the reckless and irresponsible to go West was an attempt at alleviating social tensions. But today, citizens must recognize that through their plain apathy, they commit crimes against society. The elected representatives need to become cognizant of the need for legislation that would encourage, in fact reward, acts that were socially responsible. Social contracts, as has been the case with most contracts, are much more complicated today than at any time in the past; but if those contracts are to be weakened and violence is to spread at the rate it is speeding presently, it is my strong feeling that our society will help bring about its own downfall. As Thomas Babington Macauley inferred in a letter to an American friend during the 19th century, the United States will not fall by external invasion, but instead will fall by internal dissent, division,

and violence.6

It has been said that the institutions of justice have become more concerned with the protection of the rights of the criminal than with the need for law and order in society. To an extent, I would agree. But I feel the major emphasis is misplaced. To me, a major liability within the present system of criminal justice is its utter failure to consider the innocent victim. This is the whole basis for my interest in reviving the concept of victim compensation. Though employed in the past to inhibit the practice of revenge, I believe the concept is equally applicable in today's society where the citizen has come to rely so greatly upon safety and police facilities, as furnished at the local, state, and federal levels.

Another aspect of the problem concerns the government's task of rehabilitating criminals. Though these efforts have been totally inadequate, it is government's failure to succeed in this endeavor which certainly has aggravated, if not generated, the whole problem of recidivism. How much violent crime, it should be asked, is committed at the hands of the recidivist who has been released upon society from a penal institution that served only to mold him into a more hardened and bitter criminal than he was when first incarcerated? His innocent victim has been doubly cheated by society. Not only has society failed to protect him with sufficient police and safety facilities, but its penal institutions have actually created a more serious threat to law and order by serving as graduate schools for criminals.

As a matter of public policy, social compensation programs are not revolutionary notions. Indeed, there is great similarity in rationale and origin between the notion of compensating workers, assuring them of a reasonably safe place in which to work, and compensating victims of crime, assuring them a reasonably safe society in which to live. Just as rapid industrialization increased hazards for the worker, so did the rapid urbanization of the 20th century create social conditions which set the stage for the substantial increase in recent crime statistics. Furthermore, just as the worker was frustrated in his attempts to recover damages, so, too, has the victim of crime today been frustrated. In many cases the offender is not apprehended. When he is, he is often destitute. Further complicating this latter difficulty is the fact that present penal methods deprive the offender of his ability to make restitution, as he is deprived of any means of obtaining a gainful livelihood.

Along with the worker compensation concept, other steps have been taken in the past 30 years which manifest society's abandonment of laissez faire attitudes when facing matters of collective community need. Social

^{6.} Letter from Thomas B. Macauley to Henry S. Randall, May 3, 1857, on file in the Library of Congress. Macauley said:

Your republic will be as fearfully plundered and laid waste by barbarians in the 20th century as the Roman Empire was in the Fifth, with this difference: that the Huns and Vandals who ravaged the Roman Empire came from without and your Huns and Vandals will have been engendered within your own country, by your own institutions. within your own country, by your own institutions.

security, medicare, aid to dependent children, assistance for the handicapped, the aged and the blind, ideas of no-fault insurance, and national health insurance all reflect a recognition of collective societal responsibility. Fulfilling this responsibility with regard to victims of crime is no easy task. Senate bill 750 attempts to face the problem. If adopted, it would by no means represent the first such step taken within today's family of nations. Within the last ten years, New Zealand, England, and some provinces in Canada and Australia have all enacted governmental programs of compensation for innocent victims of violent crimes. In addition, our own States of California, Hawaii, Nevada, Maryland, Massachusetts, and New York all have enacted some type of compensation program. My colleague, the former Senator from the State of Texas, Ralph Yarborough, introduced a crime compensation bill in both the 89th and 90th Congresses.

The main features of my bill currently before the Senate deserve some explanation. First of all, the bill would create a three-man Violent Crime Compensation Commission. The Commission would compensate innocent victims for injury or death resulting from any one of 18 offenses. The 18 offenses could be grouped generally under the headings of homicide, assaults, and sexual offenses, all occurring within the federal criminal jurisdiction. There would be a maximum limit of \$25,000 for each award. It would be the Commission's duty to examine the evidence presented, both to determine what level of compensation should be granted and whether in fact the person making the claim is an innocent victim.

With some limitation, the Commission could order the payment of compensation on behalf of the injured victim to the person responsible for his maintenance, to his dependents or closely related survivors. The authority of the Commission to award compensation would not be dependent on prosecution or conviction of the accused for the offense giving rise to the injury.

As far as what types of losses are covered, the proposal would provide compensation for expenses incurred as a result of the victim's injury or death, for the loss of his earning power, for pain and suffering and for any other pecuniary losses which the Commission deems reasonable. Compensation would be denied where the victim was, at the time of the injury or death, living with the offender or in any case where the Commission finds that unjust enrichment would result to or on behalf of the offender. Decisions and orders of the Commission would be reviewed by the appropriate Courts of Appeals. A most important provision would allow the Commission, where possible, to recover from a convicted assailant the amount of any awards granted as a result of his crime.

There is also provided a grant program which would encourage States to establish crime compensation systems within their individual criminal jurisdictions. At this stage, the provisions of S. 750 are by no means final. Indeed, at an appropriate time during the legislative process, many of its

features will undergo close examination, and undoubtedly, changes will be made. This is an essential purpose of the legislative process.

Recently, President Nixon recommended a special compensation program for survivors of policemen killed in the line of duty. It would seem appropriate that such a program be considered along with, and as a part of, S. 750. There are additional aspects of victim compensation that deserve greater examination and clarification. For example, the whole matter of the projected costs for implementing crime compensation on the federal level must be examined. The possibility of tying rehabilitation and restitution to compensation also has been raised. That, too, should be explored.

Indeed, many questions need to be clarified before a federal program allowing the compensation of innocent victims of violent crimes can be established. The objective in introducing this proposal is to begin the process. Before this Congress adjourns in 1972, it is my hope that the process will be completed, and there will be established on the federal level the principle that violent crime is a three-party affair which includes the victim, the criminal and the state. In the last 100 years the criminal and the state have dominated the arena of crime and punishment to the injurious exclusion of the victim. To revive at this time the proposition that citizens are entitled to protection, and such protection failing, that citizens at least are entitled to be compensated for the losses they suffer from violent criminal action can only serve to strengthen the social fibre of our nation.

[From the Congressional Record, Feb. 11, 1971]

S. 750—Introduction of a Bill To Provide Compensation for Persons Injured by Certain Criminal Acts

Mr. Mansfield. Mr. President, the U.S. Senate in the past Congress, in my estimation, achieved an outstanding record in the area of crime control. It focused its attention squarely on every proposal submitted as a crime-fighting tool. It considered fully every recommendation offered against the criminal. And it passed an abundance of legislation. Hopefully, its efforts in the fight against crime will be effective.

For my own part in the fight, I introduced legislation which would increase penalties and make them mandatory for all persons convicted of crimes involving the use of guns. That measure was enacted into law. With it, the criminal gun user is on notice that his act of violence will be met squarely with a separate

and certain penalty.

But in directing our full attention to how we can best combat the alarming crime rise we have ignored, unfortunately, certain aspects of the problem. The point has been reached, for example, where we must give consideration to the victim of crime—to the one who suffers because of crime. For him, society has failed miserably. Society has failed to protect its members adequately. To those

who suffer, society has an obligation.

At the very least, the victum of crime should be made whole for suffering personal injury. To that end, at the close of the last Congress, I submitted a proposal to compensate those who suffer from criminal violence. Under it, any person who is personally injured in the perpetration of any crime would receive pecuniary compensation. There would be established a Federal Violent Crimes Compensation Commission which would make direct awards to the victim for injuries suffered in the course of the crime committed within the Federal criminal jurisdiction. In addition, a system of revenue sharing in the form of grants would underwrite similar State compensation commissions for the victims who suffer from crimes within State and local criminal jurisdictions.

I would only reiterate that, when the protection of society is not sufficient to prevent a person from being victimized, society then has the obligation to compensate the victim for that failure of protection. The measure I suggest covers everyone. The unsuspecting victim of rape. The policeman ambushed answering a routine call. The fireman shot by a sniper when responding to an alarm. The ghetto dweller. The suburbanite. In short, this proposal provides for all who

suffer personal injury from criminal violence.

Mr. President, this is a time for bold action. This is a time for Congress to demonstrate to the people of America that it is as interested in the problems and suffering of victims of criminal acts as it is in protecting rights of accused criminals.

The time has come to give these matters early attention, and I hope that the Judiciary Committee can schedule early consideration of this and other measures

which are designed to give long overdue consideration to the victim.

I submit my bill and ask unanimous consent, as it concerns the general criminal laws, that it be appropriately referred and that its text be printed at this point in the RECORD.

The Presiding Officer (Mr. Beall). The bill will be received and appropriately referred; and, as requested by the Senator from Montana, the bill will be printed

in the RECORD.

The bill (S. 750) to provide for the compensation of persons injured by certain criminal acts, to make grants to States for the payment of such compensation, and for other purposes: introduced by Mr. Mansfield, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the Record, as follows:

[For text of S. 750 see p. 11.]

[From the U.S. News & World Report, Apr. 5, 1971]

"SOCIETY HAS AN OBLIGATION"

Introducing a bill to compensate victims of criminal violence, Senator Mike Mansfield (Dem.), of Montana, told the Senate:
"The point has been reached where we must give consideration to the victim

of crime—to the one who suffers because of crime. For him, society has failed

miserably.... Society has an obligation.

"When the protection of society is not sufficient to prevent a person from being victimized, society then has the obligation to compensation the victim for that failure of protection."

PUBLIC PAY FOR CRIME VICTIMS: AN IDEA THAT IS SPREADING

(After years of concern about rights of criminals, attention is turning to victims of crime. A movement is growing to pay them for their losses)

As violent crime increases, pressure is building up for a federal law to provide

compensation from public funds for innocent victims of those crimes.

Six States-New York, Massachusetts, Maryland, California, Hawaii and Nevada-already have enacted programs for such payments, and several other States are considering the idea.

Now bills have been introduced in Congress to make this type of compensation nationwide. One bill is sponsored by the Senate Majority Leader, Mike Mansfield (Dem.), of Montana, the other by Representative William J. Green (Dem.), of Pennsylvania.

Both bills not only would provide federal payments to persons injured by crimes that come under federal jurisdiction, but also would help States pay victims of

crimes under State laws.

In addition, three bills have been introduced in the House to compensate those hurt by violators of federal laws.

Hearing assured

Chances for passage of any such law in this session of Congress are regarded as dim. But Senator Mansfield has been given assurances that the proposals will at least get a hearing in this session-and backers predict the idea will gain momentum rapidly in years just ahead.

"This is an idea whose time has come," said Representative Green.

"We have passed a lot of laws directed at the criminals, and now we need to turn our attention to the innocent victims of criminals. It may not be this year, or next, but eventually we're going to have such a law."

If so, the United States would be far from the first nation to adopt the idea.

Great Britain and New Zealand have been paying crime victims since 1964. Compensation programs are in effect in parts of Canada and Australia, and Sweden is setting up such a program. How those plans operate is told on page 42.

Here, in Senator Mansfield's own words, is how his proposal would work:

"There would be established a federal violent-crimes-compensation commission which would make direct awards to the victims for injuries suffered in the course of crimes committed within the federal criminal jurisdiction.

"In addition, a system of revenue sharing, in the form of grants, would underwrite similar State compensation commissions for those who suffer from crimes

within State and local criminal jurisdictions. . . . "The measure I suggest covers everyone: the unsuspecting victim of rape, the policeman ambushed answering a routine call, the fireman shot by a sniper when responding to an alarm, the ghetto dweller, the suburbanite. In short, this proposal provides for all who suffer personal injury from criminal violence."

Wide range of aid

Compensation would not be authorized for offenses against property—such as theft. Payments would cover expenses resulting from injury or death, loss of earning power, "pecuniary loss" to dependents of the victim—and could also compensate for "pain and suffering."

A limit of \$25,000 would be set for payments to any one person.

Under State plans approved by the proposed federal commission, Washington would pay 75 per cent of the cost, with the States paying 25 per cent.

How much would it cost the taxpayer to compensate all the nation's citizens

victimized by lawbreakers?

This is the big question, raised by opponents of crime compensation and of concern to backers of the plan as well. No clear indication is provided by the brief experience of the few States that have tried the idea.

California and New York were the pioneering States in this field—and their

programs did not get under way until 1967. Compensation laws were passed by Hawaii in 1967, Maryland and Massachuetts in 1968, and Nevada in 1969.

Rising number of claims

Writing in the November, 1970, issue of "The Insurance Law Journal," Herbert S. Denenberg, a professor at the Wharton School of Finance and Commerce at the University of Pennsylvania, reported:

"Experience to date indicates that the costs of these programs can be kept

within reasonable bounds."

As these young programs expand, however, and as more people learn about the aid they offer, the number of compensation claims is rising steadily—and bigger increases are seen ahead.

In Hawaii, for example, an official report says that "only a small percentage of victims of what appear to be eligible crimes committed in Hawaii are

filing applications."

This, also, is suggested by one critic of crime compensation:

"If this ever becomes law nationwide, you would see a record number of crimes reported. Many victims are too embarrassed to report rape. But if it becomes worth several thousand dollars, the victim may not mind having her name in the newspapers."

How laws are working

A survey by "U.S. News & World Report" gives a picture of how the State pro-

grams are operating so far.

In Maryland, crime victims are compensated only when their losses create "serious financial hardship." Payments are limited to a maximum of \$27,500 in a case of death or \$45,000 in a case of total disability. Some awards may be paid in a lump sum, others in monthly payments over a period of time.

Here are some examples:

A woman, age 69, was assaulted on her way to church by a purse snatcher, and

her hip was broken. She was awarded compensation of \$1,136.82.

A 42-year-old man who was robbed and shot in the pelvis on a public street was awarded: \$2,904 for medical expenses and \$1,694 for time lost from work, plus monthly payments of \$54 and assurances of reimbursement for future medical bills resulting from the crime.

A widow of a man who was shot to death was first refused compensation because she had approximately \$32,000 in assets. But she won reversal on appeal after showing she had three young children, was unemployed, and had an illness requiring extensive hospitalization. She was awarded \$209.60 a month.

A 68-year-old widow whose husband was robbed and killed by a gang of youths was denied compensation because she had assets of \$18,000 plus \$119 a month

from Social Security.

Over all, in the first year of the Maryland plan's operation—July 1, 1969, to June 30, 1970—there were about 1,250 applications for compensation. According to an official report, about 1,000 applications were rejected, 240 were accepted for full investigation, and 105 of those cases were decided with the following results: 63 claims disallowed and 42 awards granted, totaling \$328,000.

Joseph Pickus, chairman of Maryland's Criminal Injuries Compensation Board, says "these figures are low because we were starting from scratch." He predicts that "within five years the program will be costing about 1 million

dollars a year."

Maryland Governor Marvin Mandel told an international conference on compensation for crime victims last year that "the program has operated well," and "I think you're going to find in the near future that more and more States are going to get into this program."

"Good Samaritan" program

California has two compensation programs: one for victims of violent crime, another for those injured while trying to prevent a crime or help in the apprehension of a criminal—under what is known as the "Good Samaritan law."

Ordinary crime victims must establish need and payments are limited to \$5,000. From this program's beginning in 1967 through February of this year, 1,245 claims were made, 330 were granted for awards totaling \$521,000 and 671 claims were denied, with 242 left pending.

Legislature must approve

Under the "Good Samaritan law," enacted in 1965, there have been only 50

claims, of which 32 were granted for a total of \$137,000. The highest award, for \$79,500, went to a man who was shot and paralyzed while trying to prevent a husband from shooting his wife. The State legislature must approve each "Good Samaritan" award, but no evidence of need is required.

New York State's program for crime victims began March 1, 1967, and since

then approximately \$2,320,000 has been paid in compensation.

In the fiscal year ended Feb. 28, 1970, the Crime Victims Compensation Board received 929 claims involving 537 "muggings," 140 murders, 121 stabbings, 120 shootings, 8 rapes and 3 motor-vehicle incidents. In 826 cases, the board made

336 awards.

The New York law has no limit on payments for medical expenses, but total reimbursement for lost earnings or loss of support may not exceed \$15,000. According to Stanley L. Van Rensselaer, chairman of the Board, the average payment to a crime victim is about \$1,400, the average to dependents of a man killed in a crime is \$3,000, and the average to a disabled victim is \$4,071 a year. Hardship must be proved.

\$10,000 limit on claims

In Massachusetts, in two and a half years of the plan's operation, awards have totaled only about \$37,000, but Attorney General Robert H. Quinn predicts that the program will expand. Compensation is designed to cover out-of-pocket losses from injuries, and the limit is \$10,000 per claim.

Since Hawaii began paying crime victims in 1968, costs have risen steadily. There were 3 awards totaling \$1,000 in 1968, 47 awards for \$111,945 in 1969, and

121 awards for \$267,157 in 1970—an average of about \$2,200 each.

In Nevade, under a law passed in 1969, only one payment has been made—and that was for a "Good Samaritan deed" by a man who was shot while trying to disarm a robber. He got the maximum payment permitted—\$5,000. Two more applications have been received since this first award was publicized. But many Nevadans are not aware of the law.

States interested

Bills to start paying crime victims have been introduced in the legislatures of

Illinois, Ohio, Michigan, Arkansas and New Jersey.

Federal crime-compensation programs were proposed in Congress in 1968 and 1970, but failed even to reach the committee-hearing stage. A plan applying only to the federally governed District of Columbia cleared the Senate last year as a little-noticed part of a broad anticrime measure, but it was dropped from the bill finally passed.

Now, with five bills pending in Congress, interest in the idea of helping crime

victims appears to be growing.

Society's responsibility?

Former Senator Ralph W. Yarborough (Dem.), of Texas, who wrote the D.C. compensation bill, expressed the feelings of most backers of the idea when he told a committee last year that persons accused of a crime "are given every protection

that society can afford them" and said:

"What happens to the injured person left lying in the street, sometimes half dead? If somebody calls an ambulance, the victim has to pay for it. If he goes to the hospital, he loses his salary from the time he is out from work. . . . He pays his own medical expenses. He pays his own hospital bill.

"Society takes care of the person accused of crime, but does little for the

person who is suffering the injury."

HOW CRIME VICTIM IS PAID ABROAD

New Zealand and Great Britain were the pioneers in the payment of compensation by the Government to victims of crime. Their programs began in 1964. Seven of Canada's 10 Provinces and some States of Australia have compensation systems. And Sweden is about to start one.

In Britain, since 1964, the Government's Criminal Injuries Compensation Board has handled 25,000 cases, made awards in 18,000 of those cases, and has paid out more than 15 million dollars in compensation. In 1969 alone, 4.7 million dollars was paid to 5,000 claimants,

Under Britain's plan, compensation is paid only in cases involving crimes of violence. Awards range as high as \$50,000 and generally reflect the amounts awarded in civil suits.

EXPANSION IN UNITED KINGDOM?

Criticism of Britain's system is aimed mostly at its restrictions, rather than its performance. A Government investigation in 1970 recommended increasing the number of awards and a bill now before Parliament would liberalize the rules.

In Canada, compensation to crime victims is financed by the provincial governments. But another plan is being considered that would provide for cost sharing by the Government.

Provincial systems vary somewhat, although generally similar. Ontario, the most populous Province, received 300 claims last year. An official estimates this number may double in the year ahead, with a predicted total of about \$800,000 in payments. There is a ceiling of \$10,000 for any one claim.

Most authorities say the ssytem is working "satisfactorily" in Canada, and the three Provinces which do not now pay crime victims are reported considering com-

pensation plans.

Sweden's program—scheduled to go into effect July 1—is relatively restricted in scope. It covers only personal damages and is intended primarily to compensate people with small incomes. Amounts of awards will be based on a means test. Maximum payments are to be fixed at about \$10,000, except in exceptional cases. The Government, as a rule, will compensate victims only for economic damages not covered by the national-health program, other welfare benefits or private insurance.

Authorities expect the cost of the new program to be small at the start—only

\$200,000 is budgeted for the first year. But costs are expected to grow.

Some other European countries, including Norway, Finland, Netherlands and West Germany, are reported to be showing interest in Sweden's experiment.

STATEMENT OF SENATOR ALAN BIBLE

Mr. Chairman, and members of this distinguished Subcommittee, I am pleased to testify today in support of S. 2426, a bill which I introduced, with the avowed purpose of taking the profit out of cargo thievery and making those individuals who steal, fence or receive stolen property civilly liable in damages for their acts. I believe it will provide a major step to curb the biggest billion dollar racket nationally today—the theft, pilferage and hijacking of truck, air, rail and maritime shipments.

This bill would permit transport carriers, shippers or those lawfully in possession of goods moving in interstate or foreign commerce to recover treble damages from any person who steals them during the course of such movement or who buys, receives or has them in his possession after they have been stolen,

having knowledge of their stolen character.

This bill would permit recovery of damages for losses sustained as a result of a violation or conviction under the Theft in Interstate Shipments Act (18 Stat. 659), providing criminal penalties for the theft or purchase of stolen goods moving in interstate commerce. It would add the civil remedy to the present criminal statute.

Technically, this bill would add a new section to Title 18 of the United States Code, to provide for a person injured by reason of a violation of Section 659 (theft from interstate shipment) to sue in any U.S. district court and to recover treble damages plus court costs and attorney fees.

Mr. Chairman, I would like to give you a brief background of the scope of

cargo theft from interstate shipments which this bill attempts to reach.

Early in 1969 the Senate Small Business Committee, of which I have the honor or being Chairman, began an investigation and public hearings into the impact of crime against small business growing out of our interest in the Small Business Protection Act of 1967.

The first phase of our series of hearings centered on air cargo thefts, then maritime and truck losses, and finally the railroads, our oldest cargo transport system.

It is graphically clear that a cargo crime crisis is upon us today. Up to this

point, law enforcement agencies, our Federal transportation regulatory and policy bodies, and our transport carrier industries generally have been unable

to mount an effective response.

Conservative estimates by the Small Business Committee show that such theft losses were approximately \$1½ billion in 1970. Truck theft and hijacking were the leading forms of cargo loss, estimated at \$900 million. Air cargo losses were approximately \$110 million, with many insurance executives and shipping experts saying that figure should be much higher. Losses from maritime commerce were \$210 million, and from the railroads \$250 million. These loss figures represent only the wholesale or released liability values of such goods. They do not take into consideration the retail profit markup, the cost to the shipper in loss of market share, claim processing expense, increased insurance premiums, capital tied up in the claims pipeline, the loss of customer good will, loss due to the dislocation of a manufacturer's production line, or a variety of other costs.

Therefore, if we add the direct dollar theft loss, the carrier's indirect cost of \$2 to \$5, and the shipper's indirect cost of \$5 to \$7, we may be talking of costs to the national economy approaching \$8 to \$10 billion. Again, it is the consumer who pays the crime-tagged price as the inflation spiral goes round and round.

There seems little doubt that the country's transport industry has become the favorite target of organized and unorganized crime. The pickings are richer

and easier.

It seems to be true that cargo security in past years has been a comfortable sidelight of the public carrier business generally. Many times meaningful safety precautions were considered not really necessary because insurance coverage would reimburse losses anyway. But today, with the cargo criminal getting busier all along the transport chain, poor security practices threaten the whole

system. The tail is too close to wagging the dog.

Law enforcement officials plus shipper, carrier, and insurance executives believe most of the massive cargo theft finds its way back into legitimate commerce as a result of the operations of criminal, middlemen fences. Today legitimate merchants, salvage companies, discount stores, as well as the shady dealers operating in dimly lit shabby stores, are believed to be the lifeblood of cargo theft operations. It is believed that many of these merchants are engaged in selling goods which were originally stolen from interstate and foreign commerce shipments. It is charged that these merchants buy goods from middlemen fences who in turn buy directly or control the operations of thieves preying on cargo shipments from all modes of transportation.

According to a study by Drs. Roselius and Benton, entitled Marketing Theory

and the Fencing of Stolen Goods:

"A rational distribution of stolen merchandise requires a complete and integrated marketing management program. This program is composed of a mix of decisions in the areas of channel of distribution, price promotion, and product design which must fit the unique buying motives and habits of the fence's market segment. The traffic in stolen goods is deterred to the extent that the channel of distribution can be lengthened. The ability to block the traffic in stolen goods increases as the supply of stolen goods becomes greater than demand. Any action that increases the price of stolen goods provides a substantial barrier to the flow."

If we can dislocate this criminal market, take the profit out of cargo thievery and make those individuals who steal, fence, or receive stolen property civilly liable in damages for their acts, we are going a long way towards taking the profit out of marketing stolen goods. This legislation is designed to reach that goal. Certainly, if a thief does not have a buyer to purchase or fence to resell his stolen cargo, then his market will dry up.

It is interesting, the manner in which a criminal fence system operates. A witness at our hearings, Mr. Gilbert H. Myer, Chief Special Agent, American Insur-

ance Association, told our Committee:

"... Many of these things are stolen for order and they are handled by organized crime. The markets are already established and the property is absorbed into our economic system just like a huge dry sponge. It just sucks it all up and it disappears... under the veil of secrecy that is very difficult to penetrate.

"... If we can eliminate the profit motive from a lot of these activities, I believe we have nailed them. In my opinion and experience, we do not penetrate the activities of the receivers, the fences and the people in possession of this stolen property. The convictions are very infrequent. They are few and far

between. The percentage of recovery of stolen property is almost negligible. I do not think it exceeds 5 percent of all property stolen that is recovered. This is one

of the fields which goes back to a further facet of this problem.

"The organized criminals do not participate in the actual stickup. They hire people to go out and do these jobs. The participant is paid off as soon as the job is accomplished. He delivers the truck to an intermediary. The intermediary then delivers it to a warehouse. From the warehouse, it is disposed of and put into the channels of disposition,"

Mr. Chairman, I can give you a hypothetical case to illustrate what I am talking about. Buyer A for the XYZ Department Store chain is concerned with buying men's clothing for his company. The mandate from his company is to buy a specific line carried by the stores at the cheapest possible price. Buyer A is relatively independent and does not account to his store's management as to where he purchases the goods—only that he gets for the store the best price. Mr. B (our fence) contacts Buyer A and advises him that he can sell to XYZ Stores the specific line of goods carried. Mr. B further advises our buyer that he will give him a bonus of \$1,000 and a cheaper per-unit price if Buyer A will

purchase from him.

Buyer A, knowing that management will also give him a bonus for buying at a cheaper per-unit price, agrees to the transaction. Mr. B then arranges for the hijacking of a truckload of goods coming from the manufacturer of this product line. The truck is hijacked; the goods are quickly placed in a rental van and delivered to XYZ Stores. Buyer A has executed a purchase order, the controller of the store pays to Mr. B the wholesale value of the goods, which is just a little bit less than the normal wholesale price. Mr. B, our fence, did not really steal the goods from an interstate shipment. Instead, he first merely arranged with a dock employee of the manufacturing company to determine when the specific products would be leaving and on what trucks. Second, he arranged to have the truck hijacked and the goods delivered to the XYZ Department Store. And, third, he arranged with the buyer to purchase the goods—a neat, clean transaction, fraudulent in its inception.

Our fence, Mr. B, is guilty of conspiring to steal goods moving in interstate commerce and at least a few other criminal charges. But will our present Federal criminal statutes reach this fence operator? I submit to you that they, in all probability, will not. But a civil liability statute could reach him, our department store buyer, and our hijackers. And the trucking company liable for all or part of

the original shipment can be compensated.

This is the objective of the bill before you: to permit transport carriers, shippers, or those lawfully in possession of goods moving in interstate commerce to recover treble damages from any person who steals them during the course of such movement or who buys, resells, or has them in his possession after they have been stolen from interstate commerce, having knowledge of their stolen character.

A recent tort action under a State statute in Georgia is an example of how this proposed Federal Act may aid in discouraging the theft of goods in transit. In that case, a judgment was entered under a Georgia State law for the value of merchandise stolen from a commercial trucking firm and punitive damages assessed against those who participated in the theft, the fence, and the owner of a company who purchased the stolen goods.

Briefly, the facts were these: The thieves stole \$26,000 worth of wire from a motor carrier, contacted a fence, who, by a middle-of-the-night phone call, sold the wire to the owner of a retail building supply firm for \$2,600. Subsequently, the Federal Bureau of Investigation solved the case, recovering some of the wire. The two thieves and the fence were subsequently tried and found guilty under

Federal criminal law.

The final buyer was not brought to trial on criminal charges because of a decision that the burden of proof to show he had knowledge of the theft at the time of his purchase might be too difficult to sustain in a criminal proceeding. But such would not be the case in a civil suit for money damages under the receiving-stolen-property Georgia State law. The plaintiff trucking company was awarded full actual damages of \$11,877.12 and \$4,375 in punitive damages which were assessed against each of the four defendants—the two thieves, the fence and the buyer. The fence and the buyer defended the civil action but did not appeal the judgment.

Had it not been for the Georgia tort statute, the ultimate purchaser of the stolen goods would have gone untouched.

Mr. Chairman, your Committee is concerned with compensation of victims of

criminal acts in these hearings. You have pioneered this civil liability concept as an adjunct to a criminal statute as demonstrated by your Organized Crime Control Act of 1970, which allows those injured as a result of racketeering conduct to recover treble damages. The bill which I have introduced follows your distinguished leadership in this area. Certainly, recovery in civil damages will give to businessmen, shippers and carriers, who pay the brunt of losses for cargo theft, an opportunity to recover some of their dollar losses and at the same time tighten up the shady market area where thieves sell their stolen goods.

If I remember correctly, in the heyday of the Al Capone reign in Chicago he was convicted not for murder, theft, violation of the Volstead Act or other mobster activity, but for income tax evasion. Perhaps, it is time we go after

the modern day cargo thieves indirectly too, as my bill proposes.

This bill would furnish a valuable addition to the arsenal of weapons our Federal courts can use against those who engage in the theft of goods moving in interstate commerce, those who "fence" such goods and the buyer who deals in

stolen goods.

Mr. Chairman, I hope the Committee will act favorably on S. 2426, and we can thereby move more effectively to break the hold of this multi-million dollar criminal fence system which supports not only cargo theft, but many other forms of commercial burglary, shoplifting and other acts against property. Thank you for permitting me the opportunity to appear before your distinguished Subcommittee and to offer my assistance in your worthwhile endeavors.

I submit for the Appendix of your hearing Record, should you want it, an article from *The New York Magazine* of November 22, 1971, entitled "They Can Get It For You Better Than Wholesa'e" by Mr. Frank E. Emerson, reviewing in detail the fence system of buying and selling stolen merchandise in the

New York City area.

[From the New York magazine, Nov. 22, 1971]

THEY CAN GET IT FOR YOU BETTER THAN WHOLESALE

(By Frank E. Emerson)

"... You can buy anything from groceries to dump trucks on the swag market, and what the swagman and his booster don't have on hand they can get from specialists who steal to order..."

Tommy steered his dark green Mercury sedan off 150th Street into a cargo terminal at John F. Kennedy International Airport. It was a Friday evening around rush hour. When I volunteered to make the trip to act as an extra pair of eyes. Tommy said that the two things I should watch for are the Port Author-

ity Police and F.B.I. agents in parked cars.

Staying cautiously below the 20-mile-an-hour speed limit, we cruised counter-clockwise around the parking lot in front of the air freight buildings. On our second circuit, peering warily through the side and rear windows, Tommy made an abrupt right turn into a wide driveway between two of the buildings; then he U-turned and pulled up in front of a side door. Almost immediately a man in a gray cargo-handler's uniform came out and opened our rear door. Without a word the man quickly placed two large cardboard cases on the floor of the back seat and vanished back into the building. Tommy eased the car away as casually as he had driven up.

We made our way out of the airport and through the traffic to a small cocktail lounge (I'll call it The City Gate) about two miles from the airport. Parked outside, we checked the cases for the first time. They contained two dozen leather

jackets imported from Denmark. Total retail value: about \$2,500.

Thomas Hicks (an alias) is a 38-year-old black electronics technician who more than doubles his \$9,000-a-year take-home salary by selling stolen merchandise. He is, in the street talk, a swagman, one of perhaps hundreds of hustlers in the city who distribute an estimated \$5-million worth of goods ripped off each year at New York's airports, waterfronts, factories and truck parks. On the swagmarket, virtually anything, from groeeries to dump trucks, can be bought. And what the swagman and his booster (thief, who may be an inside contact) don't have immediately available can usually be obtained by other highly skilled boosters specializing in stealing on order.

Tommy, an only child, was born and raised in Brooklyn. His father was a construction worker, and although he grew up during the Depression, Tommy says

that he does not remember his family's being too poor. After graduating from Van Buren High School in 1951 he enlisted in the Army, to become a paratrooper. However, Tommy soon changed his mind about jumping out of airplanes after an accident on a training flight. As a supply clerk stationed in Japan, Tommy found his specialty: hustling. Along with two of his buddies, Tommy stole everything from medical supplies to crated jeeps from the Army supply depot on Okinawa and sold them on Japan's black market.

"If I had stayed in the Army another ten years I could have been a million-

aire," he says.

When Tommy was discharged from the Army in 1953 he got married and spent the money he had acquired in the service to buy a house. "All I had left,"

he remembers, "was a deck of cards and \$25."

Tommy soon took up civilian hustling and today he is a successful independent with his own booster contact at Kennedy. Most of the boosting at JFK—particularly the big thefts—is monopolized by organized racketeers. Tommy and his non-organized friends say the mob has infiltrated a key union local of cargo handlers and an association of air freight truckers. Organized crime taps the bountiful commodities in containerized sea freight, factory warehouses and truck cargoes. According to Tommy, the mob uses swagmen like himself as down-the-line distributors for these large jobs.

This night, however, Tommy was in business for himself. After locking the jackets in the trunk of the car, we went into The City Gate and took seats at the far end of the bar where Tommy regularly awaits his customers—and where he can keep his eye on the door. The Gate is one of a number of clubs frequented by the growing black middle class in my neighborhood in southeast Queens. The Friday evening crowd at The Gate—and other bars like it—is a natural market for hustlers like Tommy; the professionals and blue-collar workers who drink there appreciate quality merchandise and are always willing to buy swag.

Tommy doesn't look like a hustler. He shuns the typical flashy bad-dude outfits for the sort of conservative but fashionable suits favored by the rest of The Gate's affluent patrons. Despite his thin build. Tommy usually looks good in his clothes—he is his own best advertisement for the merchandise he sells.

Over drinks Tommy and I talked about his part-time enterprise. "I don't know exactly how much I make a year," Tommy told me, "but I know since last August I must have made at least ten thousand in leathers and suedes alone."

We had been talking for about an hour when a short, chubby man entered the bar and headed directly toward us. He was the owner of a beauty salon on Jamaica Avenue. After some small talk he asked:

"Well, what you got good?"

"I have some suits," Tommy said.

"Let me take a look."

"Will you be here tomorrow?"

"I will if you are."

"Okay, about three."

When the man left us I asked Tommy why he didn't show him the jackets in the car. "He probably wouldn't have bought one," said Tommy. "I just sold him a suede jacket last week; I can sell him a suit tomorrow and show him the leathers next week."

As The Gate's Friday night crowd began trickling in, it was difficult for us to continue our conversation and Tommy and I arranged to meet the following day. When I arrived at his house in South Ozne Park, a lanky teenager, the son of one of Tommy's neighbors, was trying on double-breasted suits in the living room. The room was modestly furnished and surprisingly neat considering the fact that Tommy has six kids. Tommy was pacing around with a drink in his hand while his wife, Joanne, kept up a running monologue of sales talk from a chair where she held a pen and a record book. Tommy was fitting his young customer from four boxes with six suits in each that were laid out on the floor. They were high-quality wool suits with fully-lined jackets imported from Holland. The suits looked to be in the \$185—\$200 bracket, and Tommy was selling them for \$50.

By midday Tommy's living room was like a boutique, with customers shuttling in and out, trying on suits and coats and rummaging through boxes of swag spread around the floor. The teenager eventually bought a suit that fit badly, another neighbor bought a leather jacket and the pastor of a nearby church bought two suits. Two woman customers complained about the poor selection of women's clothes, and Tommy assured them that he would have a better variety later in

the day. After each sale Joanne made a notation in the record book, which not only serves as an inventory catalogue but also as a record of the credit Tommy extends to his best customers. Tommy stores his swg in his basement, haphazardly dumped in boxes or piled in chairs. But he or Joanne carefully log each item in the book and cross it off when it is sold. Sometimes, when Tommy is out hustling, he calls home to find out if he has a certain size or color available in a particular item. Joanne can usually give him this information by glancing in the record book.

After his customers left, Tommy packed some suits and leather jackets in two battered suiteases he uses to tote around his wares and we left his house and headed for The Gate to meet more customers and Bill, another hustler.

"I hope Bill picked up," Tommy said as we entered The Gate. "I can use

some dresses or coats."

Tommy deals in any kind of swag he can get his hands on. If it is good-quality merchandise that will satisfy his customers, Tommy can use it. But the mainstay of his operation is high-quality clothing boosted by a freight handler who works in a cargo shed of an international carrier at Kennedy Airport. By checking the manifest orders on incoming cargo, the booster can spot and select the merchandise he knows Tommy can use. Freight awaiting shipment is stored on racks or in bins or simply piled against the wall and grouped according to manifest order numbers. After selecting two cases of the freight he wants, the booster removes them from the cargo flow rack and puts them with other freight on the floor near a hallway that leads to a side door. As far as the company records are concerned, the two cases now become "missing en route." The freight set aside, the booster calls Tommy for a pickup. By the time Tommy gets to the airport the cargo handler has moved the swag down the hall and is waiting by the door, which can only be opened from the inside.

The pickup operation is usually made on Friday afternoons, when airport activity is most frenetic. Around 5 p.m., it seems that all 40,000 JFK employees and twice as many travelers are trying to get in or out of the airport. The air freight terminals are jammed with truckers trying to wind up business for the weekend. Adding to the congestion are befuddled drivers circling around the cargo center searching for the passenger terminals. It is an ideal time for

the swagmen.

Tommy pays his contact \$100 for each case. Depending on their contents— Tommy rarely knows in advance what is in the cases—he can make from \$500 to \$800 per case. For example, a man's leather coat selling for \$120 in a retail store can be downed (sold) on the swag market for \$50. Out of each case Tommy selects one of each kind or color for himself; if the cases contain women's

garments, his wife takes her pick.

Although Tommy depends on the airport for much of his swag, he does have other sources of supply. Like the hundreds of other swag dealers in the city, Tommy is part of and depends upon an extensive but informal network of fellow hustlers, each with his own booster contacts. Tommy deals mainly in men's clothes; other swag merchants may deal primarily in watches or have boosters who supply cameras. Bill, who is a printer and like Tommy only a part-time hustler, is Tommy's main supplier of women's apparel. Bill's contact is a truck driver for a dress factory in Long Island City who sometimes cops from his own truck and then tells his boss that it was rifled as he made local deliveries. More often, however, the driver gets the cooperation of a shipping clerk who inflates shipping orders; as a result the truck is loaded with a dozen or so extra garments a couple of times a week. Bill pays his booster \$3 for each dress and resells them for \$10 to \$15 apiece.

". . . The Mafia, of course, has the inside contacts and the payoff money to get away with entire shipments of furs and jewels . . ."

We had just sat down at the bar of The Gate when Bill strode leisurely in, dressed in a waist-length leather jacket and matching leather jeans. During the week he had gathered 25 dresses, some raincoats and four ensembles—matching coat-and-dress outfits. The dresses had Stacy Ames and Sue Brett labels and the ensembles were shipped by Jonathan Logan. Tommy and Bill conducted their business in Bill's car. Tommy bought twelve of the dresses and, as they often do, the two hustlers made a trade: Bill took four of Tommy's double-breasted suits in exchange for the four ensembles.

After a quick trip home to replenish his suit stock, Tommy was ready to deal. During the next two hours the barmaid directed prospective customers to the

bar's basement where Tommy, amid cases of liquor and bar supplies, hustled his swag. One customer (Tommy later told me he was a cop) bought a suit and a jacket.

All told, Tommy sold four suits and four leather jackets. With just six dresses and three ensembles left, Tommy headed for home again to restock. Before leav-

ing The Gate he gave the barmaid a dress.

"In this business, your best friends are those girls behind the bar," Tommy said as we climbed into his car. "They can turn you on to a lot of customers and they down a lot of stuff for you too. Plus the fact they buy a lot for themselves."

After picking up more swag, Tommy began making the rounds of other bars in the neighborhood. At each stop, Tommy would take his customers to his car to show them what he had and they would take a suit or a jacket into the bar's bathroom to try on. When I left him at about six that evening Tommy had pocketed more than \$500 hustling. At those rates, I asked Tommy why he doesn't hustle full time.

"Oh, I used to. Hey, you don't think I've been wiring televisions all my life, do you?" he answered. "But my kids are getting older and it's better to have some kind of main gig for their sake. People are always asking kids, 'What does

your daddy do?' So it looks better to have a job.

"But it's not only that," he continued. "I want to save some bread so I can cut the hustling thing loose altogether. I want to start a business of my own—I mean a real business. Something where I can lay back and have money rolling in without working at all."

I next saw Tommy at The City Gate on a rainy Sunday afternoon. On the floor next to his barstool was a carton with a 9-inch portable Sony television inside.

"Some dude was in here a little while ago selling them for \$35," Tommy said when I asked him about the TV. "He said he could get more, so I put in my

order for a couple of dozen.

Putting in an order—stealing on demand—is a regular part of the business for hustlers like Tommy. If there is something that a customer wants and he doesn't have, Tommy can usually get the item by turning to another hustler who deals in that line of merchandise. But frequently, to fill a customer's request, Tommy must put in an order with a hustler who is a broker for a gang that steals on order.

There are no figures to show just how widespread stealing to order has become. But the decline of pawnbrokers in Harlem, for example, and the marked increase of arrests for criminal possession of stolen property—last year there were 12,055 such arrests compared with only 1,800 in 1966—lead police to suspect that the

stolen goods racket is a thriving enterprise.

Just above anything can be purchased on the swag market, but not at any given time. One steal-to-order group cops furs while another deals in diamonds. A recent bust in Queens netted 40 members of a gang that specialized in heavyduty construction equipment like bulldozers and tractors. The ring-leader was a woman who would call contractors doing work in the area and ask if they would be interested in buying a piece of equipment. To fill one order the gang made a midnight raid on a construction site in Suffolk County, loaded a ten-ton dump truck on a flat trailer and towed the truck across Nassau, Queens and Brooklyn to a contractor in Staten Island. The \$35,000 piece of equipment cost the contractor \$9,000.

A car-theft ring based in the Bronx filled orders for Cadillacs and other luxury cars. The group was not only supplying the vehicles requested but also registration and license plates. The gang had its own validating stamp to authenticate registrations and at one point the leaders boldly put the hot car's registration forms through regular Motor Vehicle Bureau channels to have

them validated.

Normally Tommy only goes through the added trouble of contacting such steal-to-order specialists to satisfy his best customers. I was with him on one

occasion when a customer put in an order for a fur coat.

We had gone to the home of a dentist in the Addisleigh Park section of St. Albans, where many rich blacks live. Properties run as high as \$75,000 to \$100,000; James Brown, Count Basie and Brook Benton have homes in the area. Tommy was taking his wares to the dentist because, as he put it, "This guy is subject to buy everything I got." The dentist brought a brown-and-

black leather jacket, two suits and an overcoat. Most of Tommy's customers, like the dentist, can afford to maintain adequate wardrobes by shopping in retail stores. But by dealing with Tommy they can get more for less and people are always ready for a bargain. After making his purchases, the dentist asked Tommy to get a full-length mink coat for his wife.

The first stop for Tommy was a Harlem hustler who deals in hot furs.

But the hustler only had mink stoles and capes, no full-lengths. Tommy next turned to another uptown hustler named Jimmy, who heads a group of about

twenty professionals.

'Jimmy is so precise," Tommy said, "that you can take him to a store and

show him what you want and he'll get exactly what you show him."

Tommy gave Jimmy the specifications on the mink coat and the following week Jimmy produced a full length letout Autumn Haze mink coat valued at over \$3,000. Tommy paid \$400 for the coat and downed it on the dentist for \$600.

At times, Tommy resorts to legitimate merchandise to fill orders. If, for instance, he has several customers who want overcoats, he will go to a factory and buy them wholesale and sell them along with his swag. However, Tommy clearly regards sellers of "store-bought" swag-and their customers-with contempt:

"These guys run around like the cops are just two steps behind them or stand on Eighth Avenue flashing rings and watches from under their coats. The suckers think that stuff is hot. But if the cops grab them they have a peddler's license and a bill of sale. The stuff isn't hot—it's just junk from

import houses downtown."

There are a number of import wholesalers in lower Manhattan where street peddlers can buy cheap watches, rings or transistor radios, cart them uptown and peddle them to the gullible and the greedy as hot merchandise. In fact, some importers carry Japanese-made watches that are boxed and priced identical to American-made brands but sell for about \$36 per dozen. Except for the subtle misspelling of the brand name—like "Hamelton"—the cheap watches look exactly like the expensive ones. Or the street hustlers can buy made-in-Hong Kong perfume packaged like the real thing but labeled "Shalimer."

In point of fact, no hustler dealing in genuinely hot goods would risk trying to down his swag on the streets or to strangers. By comparison there is a

lot less risk involved in making a pick-up run at the airport.

Nevertheless, the Airport Security Council, formed three years ago by the 43 airlines using JFK, has put a stop to much of the wholesale pilferage that used to take place in the air freight center. There was a time when it was as easy to steal cargo as it is to pick up freight legitimately. Kennedy's air freight facilities have not expanded to keep pace with an air cargo industry growing at the rate of 20 per cent a year. Often, simply because there was not enough storage space, freight was left in the open, around loading platforms,

making it temptingly easy for boosters to help themselves.

These days, however, Kennedy's air cargo center is not the easy touch it used to be. The Port of New York Authority reports that last year there was only \$1.4 million worth of cargo thefts as compared with \$3.3 million in 1969. Actually these loss figures are probably greatly understated since air shippers—in an effort to keep down bad publicity and insurance costs—don't report all thefts. But while tightened security has cut down on thefts by free-lancers, it has done little to stop the thievery engineered and executed by the big-time operators. The Mafia, of course, has the contacts for inside information and the money for payoffs to get away with entire shipments of furs or jewels. Investigations by the New York State Commission of Investigation have shown mobster elements dominant in Local 295 of the International Brotherhood of Teamsters, which represents most of the cargo handlers at JFK, and the National Associations for Air Freight, Inc., an organization of air freight haulers. The union local and the trade association work in a "hand in glove" relationship and have a stranglehold on the air freight industry at JFK, according to the Commission's investigations. The recent arrest of Harry Davidoff, secretary-treasurer of Local 295, for allegedly extorting thousands of dollars in airline tickets can hardly be the biggest indication of the scope of the crime problem.

Organized crime also controls the underworld disposal systems where boot-

legged goods are rapidly fenced and distributed in the city and across the country. Not all of the swag remains underground. Some of it is funneled to discount buyers, job lot dealers and other middlemen before reaching the counters and display windows of legitimate outlets. Given current economic conditions, may small businessmen are only too glad to get merchandise at low swag market prices.

Tommy has one or two small shops in Queens where he can go directly to sell swag. On one occasion he sold two dozen cotton dresses to a women's store on Sutphin Boulevard. There were no questions about the source; the owner simply looked the dresses over and then asked, "How much?" The retailer paid Tommy \$3 each for the garments. Tommy paid only \$1 each to a

booster who had copped the dresses in the garment district.

Boosters maintain a steady flow of hot goods on the swag market, but it is not merely enough for all the people who are willing to buy swag. Tommy never has to make a sales pitch: his bargain merchandise sells itself.

"... Color televisions are in such demand that a booster could sell as many as he had without fencing through a hustler . . ."

Some items, like color televisions, are premium swag. The demand for color televisions is so high that they are unavailable on the swag market most of the time and are only obtained through steal-to-order brokers. As fast as a hustler can get one he can sell it. In fact, for something like a color TV, a booster wouldn't need to fence through a hustler. He could sell as many as he had as fast as he could say "I have a color TV, hot." In most instances, though, boosters are not interested in expending the time and energy it takes to do their own hustling. Hustlers who do not do their own boosting are, of course, very dependent on their booster contacts, who are sometimes very undependable.

Not surprisingly, the hardest-working boosters are narcotics addicts who need money every day. For the most part, addicts get their swag shoplifting in department stores or burglarizing stores or apartments. The quantity of swag produced from these thefts is usually small and if there is one thing that the hustler thrives on, it's a steady flow of swag in large quantities. Some hustlers are pushers and

may have several addicts working for them, profiting two ways.

Tommy, however, makes it a point never to handle narcotics or become involved with anyone who does. On more than one occasion he has turned down deals because they involved narcotics. "The heat is on dope," he says. "That's a big bust if they get hold of you. You'd be in the slammers a long time behind a smack bust."

The last time I saw Tommy was in late September. He was gearing up his operation for the Christmas season. "In this business you have to be way ahead so you can get to the people before they start buying in the stores. A lot of my people are putting in orders already too," he said. He was on his way to call on other dealers to check out their swag and to see if he could trade away some of

his leftover odds and ends.

In Brooklyn our first stop was at Alphonso's. Alphonso is a wholesale swag dealer who sells only in large quantities to other hustlers but does no hustling himself. He is one of the middlemen in the chain of distribution for mob-controlled thefts of containerized sea fright and truck cargoes. As we stepped into his apartment, Alphonso began recounting a fisherman's tale about the one that got away. A few days earlier, a truckload of 50 portable color televisions was hijacked and the entire shipment was offered to Alphonso for \$2,500. But he needed a garage to store the hot cargo.

"By the time I found a place to unload the truck, it was too late," Alphonso

said dejectedly. "Someone else had bought it."

Truck piracy, apparently, is becoming the preferred method of obtaining swag by organized mobsters. While crime statistics are rising steadily in the city, figures on truck hijackings are jolting upwards. And hijackers are sometimes incredibly brazen in their ripoffs. In early October a truck laden with \$200,000 in furs was hijacked in bumper-to-bumper rush hour traffic on a ramp connecting the Van Wyck and Long Island expressways. When the truck turned from the Long Island Expressway onto the ramp, it pulled up behind an apparently stalled passenger car. When the truck stopped, a man with a gun approached the cab of the truck and ordered the driver out and told him and his assistant driver to get into the "stalled" car. While this was going on another car belonging to the

hijackers was parked behind the truck blocking the view of motorists to the rear. The truck, led and followed by the hijacker's cars, then moved onto the Van Wyck Expressway. The driver and his assistant were later released unharmed—without their truck, of course. A typical heist.

Stealing a sea freight container is a much bigger job. It requires people who can identify the contents of the container and its location. It also requires a tractor and a trailer to move the container, not to mention the cooperation of

pier watchmen.

WHAT PRICE SWAG?

(These are, for the record, some of the current prices on the swag market. Prices vary from hustler to hustler, of course.

Needless to say, this does not constitute an offering)

ltem ,	Retail	Hot
Mack tractor-trailer	\$35,000	\$9,000
971 Cadillac Fleetwood		2, 500
Black Diamond mink coat	3, 000	900-1, 300
.85-carat diamond ring	975	200
CA color TV (23-inch screen)	497	100
Minolta SRT 101 single lens reflex camera	265-385	65
Man's wool overcoat	200	60-75
Man's wool suit	185	50
Man's suede overcoat	165	60
Divetti Lettera 36 portable electric typewriter		40-50
Voman's suede midi coat	115	45
Bulova "Accutron" watches	110195	45 -60
Man's leather jacket	110	45
Singer sewing machine (Touch and Sew)		, 65
Voman's fur-trimmed coat	175	60
Vhirlpool 13,500-B.t.u. air conditioner		100
i- by 9-foot Rya rug		45
ohnnie Walker Red (case)		40
American Tourister 3-suiter	63	20
Sunbeam Mixmaster electric mixer	60	_ 15
onathan Logan dresses	24-34	7-10

¹ Plus tax.

The advent of the container a few years ago was hailed as a revolution in the sea freight industry. It makes cargo handling easier because preloaded containers can be shipped to the docks by rail or truck and transferred directly to ships. But container thefts, like truck hijackings, have jumped radically. Last year more than 60 containers were stolen. Most containers hold cargoes valued generally from \$50,000 to \$200,000.

Usually within about 24 hours of a truck hijacking or container theft, Alphonso gets a call to bid on portions of the booty. On most swag, Alphonso pays about one-third its wholesale value and sells to hustlers like Tommy at aboue one-third its retail value. But even big fences like Alphonso can get stuck with swag which is difficult to down. It happened, in fact, in a truck hijacking last

year on the New Jersey Turnpike.

"I was supposed to get 32 cases of Scotch," said Alphonso, "but the guys that were following the truck somehow or other got messed up on what truck they were supposed to be taking off. It turned out when they got the truck that it was loaded with spices like you see in the grocery store. I wound up with 32 cases of Accent." Tommy here doubled over laughing.

AMERICAN INSTITUTE OF MARINE UNDERWRITERS, New York, N.Y., November 23, 1971.

SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURES,

U.S. Senate Committee on the Judiciary,

New Senate Office Building,

Washington, D.C.

Dear Sirs: In connection with your consideration of this Bill, we wish to submit as a statement before your hearings on November 30th, the attached letter supporting Senator Bible's introduction.

Respectfully submitted,

JOHN C. HERMAN, Secretary.

AMERICAN INSTITUTE OF MARINE UNDERWRITERS, New York, N.Y., November 3, 1971.

Hon. JAMES O. EASTLAND,

Chairman, Committee on the Judiciary, U.S. Senate, New Senate Office Building, Washington, D.C.

Dear Senator Eastland: We have followed with interest the introduction by Senator Bible on August 4, 1971, of Bill 2426 which would provide a civil action for damages resulting from crimes involving property in interstate or foreign commerce. We wish to record with you and your Subcommittee on Criminal Law our full support of this Bill.

Our Institute is the national association of Ocean Marine Underwriters in the United States, having in Membership more than 100 insurance companies which insure cargo in international trade. In terms of the total domestic underwriting capacity for these risks our Members provide more than 85% of the volume of

indemnity.

The criminal element in our society has been shielded for too long from civil responsibility for its acts. If an honest businessman is liable in civil law for his acts, there is no logical reason for the criminal element to be excluded from a code for which it has no respect. We need to innovate today if we hope to sub-

jugate crime tomorrow.

At the present time the final buyer of stolen merchandise, even though known, is outside the reach of criminal prosecution and civil liability. Bill S. 2426 will plug this loophole in the wall of responsibility so that all who steal, fence, have in their possession and purchase stolen merchandise will be held accountable for their role in this growing national problem. Senator Bible's introduction goes directly to a root cause of theft and pilferage—a ready market for sale of "hot" merchandise.

It seems to us that the controls advocated in Senator Bible's measure are essential steps to a national cargo loss prevention endeavor, and we strongly urge favorable consideration of Bill S. 2426.

Sincerely yours,

Dale E. Taylor,

President.

AMERICAN TRUCKING ASSOCIATIONS, INC., Washington, D.C., December 17, 1971.

Hon. John L. McClellan, Chairman, Subcommittee on Criminal Laws and Procedures, Senate Judiciary Committee, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: On November 30, 1971, hearings were held by your Subcommittee on seven bills relating to civil remedies for victims of crime and for benefits to law enforcement officers and their survivors. The bill of particular interest to the trucking industry is Senate Bill 2426 which will provide a right of civil action by motor carriers to recover treble damages from thieves, fences and buyers of property stolen when in interstate commerce.

Through an oversight, we missed the notice of the hearings. By means of this letter, we want you to know that the trucking industry strongly endorses enactment of S. B. 2426. We urge your support in favorably reporting this bill out of your committee and request that this letter be incorporated in the record of your

November 30, 1971 hearings.

The theft of cargo from the trucking industry is one of the most serious problems confronting our industry today. We do not know the exact total dollars lost to thieves. Based on fragmentary information available to us, we estimate it be in the 600 to 700 million dollars range. Further, we believe the bulk of the freight stolen is taken by "professional thieves"; that is, thieves who steal and convert the goods to cash through established fences or directly to buyers who purchase under circumstances and at prices which would cause a reasonable man to believe that the goods are "hot".

The burden of proof which must be met to obtain conviction on a charge of possession of stolen goods is so great that it sharply limits successful prosecution for that crime. The burden of proof required in a civil action is considerably less. In other words, evidence insufficient to obtain a criminal conviction could

well be strong enough to warrant a successful damage judgment is a civil action. The treble damage provision increases the monetary risk of the fence and the buyer, resulting in a decrease of price to the thief and reduction of profit to each

in the chain.

We do not consider the enactment of S. B. 2426 to be a panacea but rather another means for use in getting to the fences and buyers of stolen goods. These latter two groups are the ones who make stealing profitable for the actual thief—without their finances and distribution network, the professional thief cannot exist.

May I again urge your favorable consideration of this bill. Sincerely,

W. A. BRESNAHAN.

Association of American Railroads, Washington, D.C., December 7, 1971.

Hon. John L. McClellan,
Chairman, Subcommittee on Criminal Laws and Procedures,
Committee on the Judiciary,
U.S. Senate,
Washington, D.C.

Dear Mr. Chairman: The Association of American Railroads supports S. 2426, relating to crimes involving property in interstate and foreign commerce, which was the subject of a hearing held by the Subcommittee on Criminal Laws and Procedures of the Senate Judiciary Committee on November 30, 1971.

This bill would permit recovery of damages for losses sustained as a result of violation of the Theft in Interstate Shipments Act (18 U.S.C. 659) providing criminal penalties for the theft of goods, or the purchase of stolen goods, moving in interstate or foreign commerce. It would permit any person injured in his business or property to recover treble damages from any person who steals goods during the course of such movement or who buys, receives, or has them in his possession after they have been stolen, having knowledge of their stolen character. S. 2426 would add this civil remedy to the present criminal statute.

The railroad industry is vitally concerned about the growing problems of cargo security faced by the several forms of transport and their shippers. Ways and means must be found to bring these problems under control. We believe that the remedy provided by this bill, especially as to the purchase or receipt of stolen

property, would serve as one needed deterrent to the theft of freight.

We respectfully request that this letter be incorporated in the record of the hearings on S. 2426 conducted by the Subcommittee on Criminal Laws and Procedures.

Sincerely.

STEPHEN AILES.

Transportation Cargo Security Council, Washington, D.C., December 17, 1971.

Hon. John L. McClellan,

Chairman, Subcommittee on Criminal Laws and Procedures, Senate Judiciary Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing you on behalf of the Transportation Cargo Security Council to express the support of this group for Senate Bill 2426 which will establish a right of civil action and provide treble damages for losses resulting from theft of property in inter-state and foreign commerce. We will appreciate your inclusion of this statement in the record of your November 30, 1971 hearings on this and other related Senate Bills.

Our 26 member Council was formed earlier this year as an independent labormanagement task force to work with the Federal Interagency Committee on Crime in Transportation sponsored by the Department of Transportation. The Council is comprised of carrier, user, insurance and labor representatives and

I am its current Chairman. Our membership list is enclosed.

At our Council meeting on November 3, 1971, we reviewed pending Federal legislation and voted overwhelmingly to support Senate Bill 2426. Enactment of this legislation will provide an additional deterrent to thieves, fences and ultimate buyers of stolen merchandise handled in large single transactions.

One of the more serious problems confronting the transportation industry is the theft of cargo. The magnitude of losses is not known, however, best available estimates place the direct dollar loss at \$1.7 billion annually. The plight of the manufacturing industry, though not publicized nor estimated, has to be one of substantial theft losses. Thefts from retail operations can be best understood in terms of the situation in the greater metropolitan area of Washington, D.C. where current estimates of the annual cost of shoplifting runs in the one to two hundred million dollar figure annually.

A large amount of the stolen cargo moves through fences to distribution outlets and in many cases, the buyer knows or should have good reason to suspect

the goods offered to him are stolen.

Although we have no statistics to document the case, we are certain that law enforcement officers, prosecutors and judges will attest to the extreme difficulty in criminal prosecution and conviction of persons for possession of stolen goods. As a consequence, those who profit most from stolen goods, the fences and ultimate buyer, have sufficiently insulated themselves from any great likelihood of conviction in criminal court.

Senate Bill 2426 will help provide a significant penalty primarily because the burden of proof required in a civil suit can more easily be satisfied than that

required for criminal conviction.

Enactment of this legislation will increase the risk to fences and buyers of large quantities of stolen goods which, in turn, will increase their costs and take a lot of profit out of handling stolen merchandise. The treble damages provision would persuade buyers in legitimate retail operations to assure themselves of the source and authenticity of goods offered to them in great quantities at belowmarket prices. In making this last statement, we are not asserting that legitimate retail operations provide a large and ready outlet—we are only pointing out that the treble damages for provision of S.B. 2426 will tend to dry up this market for stolen goods.

We believe the Organized Crime laws are adequate for racketeering and highly organized criminal syndicate operations. Civil action provided by S.B. 2426 would complement criminal proceedings there as well as in thefts of inter-state ship-

ments by criminals operating outside a highly organized syndicate.

Since crime in transportation is a national problem, we believe the Federal Government should lead the way in providing legislation to reduce the profit in crime. We have reason to believe that enactment of S.B. 2426 will spur the states to enact similar legislation to provide treble damages for stolen freight be it in inter-state commerce or intra-state commerce.

Sincerely,

HAROLD HAMMOND.

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STATEMENT OF THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, AFL-CIO BY W. H. McClennan, President, for the Record of the Senate Judiciary Subcommittee on Criminal Law and Procedures

The International Association of Fire Fighters, AFL-CIO, represents a membership of 156,000 Professional Fire Fighters in the United States, Canada and the Panama Canal Zone.

We present this testimony particularly in support of S. 1946 by Senator Hubert H. Humphrey that would provide a Group Life Insurance Program for Fire Fighters and Law Enforcement Officers and also on behalf of S. 2748 by Senator J. Caleb Boggs, that would provide \$50,000 benefits to survivors of Police Officers, Prison Guards and Firemen who are killed in the line of duty.

The International Association of Fire Fighters strongly believe that the time is long over-due when the Federal Government should extend benefits to the families of Police Officers and Fire Fighters who are killed in the line of duty.

It is already policy that the Federal Government has sufficient interest and obligation to assist our municipalities in maintaining strong and viable Public Safety Departments. This can best be encouraged by the Federal Government by assisting municipalities in providing benefits for the survivors of those Public Safety Officers who are killed in the line of duty.

The time has come when the Congress must recognize that Public Safety Officers are dealing with a very mobile element in these United States. The sniper who would attack a Police Officer or Fire Fighter, in most instances we are sure are not local residents but those imported for the execution of the dastardly act. An arsonist who would set a fire tonight in Little Rock, Arkansas could well have been in Chicago at breakfast time that same day.

Because of the stepped up attacks upon Fire Fighters and Police Officers, solely for the fact that they represent the establishment, makes it difficult for many municipalities to attract qualified individuals into the positions of Public Safety

work.
The Federal Government in a

The Federal Government in adopting, in our opinion, particularly the Boggs Bill, \$50,000 for survivors, with a very small expenditure of monies will go a long way in assisting municipalities governments who maintain fully staffed

and qualified Public Safety Departments.

The 1970 Death and Injury Survey of our organization showed that 115 Fire Fighters died in the line of duty during that year. According to the Department of Labor, Bureau of Statistics, the Fire Fighters have obtained the dubious distinction of having more deaths per 100,000 workers than other occupations followed very closely in third place by Police Officers. Federal Government's own investigation into the loss of life and injury during the riots of Watts, Detroit, Newark and Cleveland showed that Fire Fighters suffered more casualties than Police Officers.

It is the firm belief of the International Association of Fire Fighters than most of the local jurisdictions of our country are in dire financial straits. Because of this fact, they are unable, without Federal assistance, to provide a decent level of benefits to the survivors of Fire Fighters and Police Officers who

die in the line of duty.

There is much discussion, at the present time, regarding revenue sharing with municipalities. I can assure you there is no better way to assist municipal Governments in maintaining good morale in their Public Safety Departments than by adopting into law the principles embodied in Senator Boggs' S. 2748 and the principles of Senator Humphrey's S. 1947. The International Association of Fire Fighters vigorously supports the legislation introduced by Senator Kennedy that would provide a Group Life Insurance Program for the Police Officers of this Nation. We firmly believe that if Senator Kennedy's proposal should become law it should be extended to include the Fire Fighters of this Nation.

The International Association of Fire Fighters respectfully request the Committee to favorably report legislation reflecting the intent of these bills with equal consideration to all Public Safety Employees.

THE LIBRARY OF CONGRESS, Washington, D.C., August 10, 1971.

To: Senate Criminal Laws and Procedures Subcommittee

Attention: G. Robert Blakey
From: American Law Division

Subject: Comparison of Title IX of the Organized Crime Control Act as amended

by S. 16 with Federal Antitrust Laws

The enclosed memorandum is in response to your request for a report comparing and contrasting the Organized Crime Control Act as presently written, and as it would be amended by S. 16, with present federal antitrust laws. You will note that major emphasis was placed on the changes envisioned by S. 16 and that Oppenheim & Weston, Federal Antitrust Laws (1968) and The Section of Antitrust Law of the American Bar Association, Antitrust Developments, 1955–68, Supplement to Report of the Attorney General's National Committee to Study the Antitrust Laws, 1955 (1968) and (1968–69 Supp.) were heavily relied upon.

CHARLES DOYLE, Legislative Attorney.

THE LIBRARY OF CONGRESS, Washington, D.C.

CIVIL REMEDIES FOR VIOLATIONS OF THE ORGANIZED CRIME CONTROL ACT OF 1970 AND THE ANTITRUST LAWS

INTRODUCTION

Title IX of the Organized Crime Control Act of 1970, 84 stat. 922, 941 (1970), creates several civil remedies for those injured by violation of its provisions. In discussing the rationale for the creation of these remedies, the Senate Judiciary Committee noted: "There is no doubt that the common law criminal trial, hedged in as it is by necessary restrictions on arbitrary governmental power to protect individual rights, is a relatively ineffectual tool to implement economic policy. It must be frankly recognized, moreover, that the infiltration of legitimate organizations by organized crime presents more than a problem in the administration of criminal justice. What is ultimately at stake is not only the security of individuals and their property, but also the viability of our free enterprise system itself. The committee feels, therefore, that much can be accomplished here by adapting the civil remedies developed in the antitrust field to the problem of organized crime." S. Rept. No. 91–617, 91st Cong., 1st Sess. 80–81 (1969).

Originally, Title IX merely authorized the Attorney General to use those equitable remedies developed in the antitrust fields. However, at the suggestion of the American Bar Association Section an Antitrust Law Title IX was amended to include a private right to treble damages in those injured by violations of the Act. S. 16 introduced on January 25, 1971, by Senators McClellan and Hruska would amend Title IX to give the United States the right to recover civil damages and to make certain semantical and procedural changes designed to increase the similarity between the remedy authorized by Title IX and those of the antitrust laws.

Prior to the enactment of the Organized Crime Control Act the antitrust laws had occasionally been employed to restrict the invasion of organized crime into legitimate business. Organized Crime Control, Hearings on 8, 30 and Related Proposals. Before Subcommittee No. 5 of the House Committee on the Judiciary, 91st Cong., 2d Sess. 148–49 (1970) (Statement of the American Bar Association Section of Antitrust Law citing United States v. Bitz, 282 F. 2d 465 (2d Cir. 1960); United States v. Pennsylvania Refuse Removal Association, 357 F. 2d 806 (3d Cir. 1966), cert. denied, 384 U.S. 961 (1966); Los Angeles Meat and Provision Drivers Union v. United States, 371 U.S. 94 (1962); "Antitrust Enforcement Against Organized Crime" 70 Columbia Law Review 307 (1970). Relief under the Act is predicated upon a violation of its provisions rather than conduct forbidden by the antitrust laws. More precisely, the remedies require a violation of 18 U.S.C. § 1962 which

outlaws the investment of funds derived from a pattern of racketeering activity or collection of an unlawful debt in any enterprise engaged in interstate or foreign commerce; acquisition or maintenance of such an interest in an enterprise through a pattern of racketeering activity or collection of an unlawful debt; conduct of such an enterprise through a pattern of racketeering activity or collection of an unlawful debt; or conspiracy to commit any of these unlawful acts. A "pattern of racketeering activity" is defined as the commission of two or more criminal acts such as murder, kidnapping, gambling, arson, robbery, bribery, extortion, narcotic violations, counterfeiting, usury, mail fraud, bankruptcy, wire and securities fraud and obstruction of justice, 18 U.S.C. § 1961 (1), (5).

CIVIL REMEDIES OF TITLE IX

Section 1964(a) of title 18 of the United States Code authorizes United States District Courts to exercise their equitable powers to restrict and prevent violations of 18 U.S.C. § 1962. This authority includes but is not limited to: "ordering any person to divest himself of any interest, direct or indirect, in any enterprise... the activities of which affect interstate or foreign commerce;" "imposing reasonable restrictions on the future activities or investments of any person;" "or ordering dissolution or reorganization of any enterprise."

Section 15 of the Clayton Act, 15 U.S.C. § 25, and Section 4 of the Sherman Act 15 U.S.C. § 4 have granted United States District Courts jurisdiction to prevent and restrain violations of their antitrust provisions. This authority includes the equitable powers of dissolution, divestiture and divorcement. As Professor Oppen-

heim noted:

"Among the remedies available in equity antitrust proceedings are dissolution, divestiture and divorcement. These terms may be distinguished and defined as follows: 'Dissolution' is generally used to refer to a situation where the dissolving of an allegedly illegal combination or association is involved; it may include the use of divestiture and divorcement as methods of achieving that end 'Divestiture' refers to situations where the defendants are required to divest themselves of property, securities or other assets. 'Divorcement' is a term commonly used to indicate the effect of a decree where certain types of divestiture are ordered; it is especially applicable to cases where the purpose of the proceeding is to secure relief antitrust abuses flowing from integrated ownership or control. . . .

"These remedies are not created in express terms by statute. But Section 4 of the Sherman Act and Section 15 of the Clayton Act empower the Attorney General to institute proceedings in equity to 'prevent and restrain' violations of the antitrust laws. . . . Further, aside from these general statutory authorizations, the essence of equity jurisdiction is the power of the court to mould the decree to the necessities of the particular case. . . . Since the public interest is directly involved, the court may go much further in granting relief than it does when only

private rights are involved...

"The difficulties of formulating effective decrees in complex antitrust cases often involving the structure of entire industries are obviously enormous.... Dislodgement of illegal controls requires corrective measures of either a negative or affirmative nature in order to dissipate the effects of the violations and to prevent future violations without imposing undue hardships on the defendants.

"Accordingly, no single method of achieving the end sought in the decree can be regarded as exclusive or preferable. Partial or complete dissolution, coupled with either divestiture or divorcement features, or both, may be ordered after weighing and rejecting alternatives. A variety of other additional remedial devices may be

employed. . . .

"Relief granted in antitrust cases must be tailored to the specific factual situation presented to the court.... Thus cases in which dissolution, divestiture or divorcement was granted because the court concluded that no other available relief would be sufficient to neutralize the illegal forces found and to restore competition to the particular industry include the 1911 Standard Oil [Standard Oil Co. of New Jersey v. United States, 221 U. S. 1 (1911)] and American Tobacco [United States v. American Tobacco Co., 221 U.S. 106 (1911)] cases and the Paramount Pictures case [United States v. Paramount Pictures, 334 U.S. 131 (1948)]. The requested relief was granted in the Crescent Amusement case [United States v. Crescent Amusement Co., 323 U.S. 173 (1944)] because 'Dissolution of the combination will be granted where the creation of the combination

is itself a violation; the Schine Chain Theatres decision [Schine Chain Theatres v. United States, 334 U.S. 110(1948)] was a case in which relief was granted to prevent the defendants from enjoying the "fruits" of their unlawful activities. Cases in which this phase of the requested relief was denied include the Alcoa decision [United States v. Aluminum Co. of America, 148 F.2d 416, (2d Cir. 1945)] and the General Electric case [United States v. General Electric Co., 82 F. Supp. 753 (D.N.J. 1949)] on the ground that an essentially indivisible organization was before the court; the National Lead case [United States v. National Lead Co., 63 F. Supp. 513(1945) affirmed 332 U.S. 319 (1947)] because of the unnecessary harshness of the remedy; and the Timken case [Timken Roller Bearing Co. v. United States, 341 U.S. 593(1950)] on the ground that 'It is not for the courts to realign and redirect effective and lawful competition where it already exists and needs only to be released from restraints that violate the antitrust laws.' In the 1953 United Shoe Machinery case [United Shoe Machinery Corp. v. United States, 347 U.S. 541(1954)] divestiture was granted in part and refused in part....

"With respect to the circumstances under which the courts will grant dissolution, divestiture or divorcement, the Supreme Court, noting that 'In this type of case we start from the premise that an injunction against future violations is not adequate to protect the public interest,' made the following oft-quoted statement in the Schine case [supra]: 'Divestiture or dissolution must take account of the present and future conditions in the particular industry as well as past violations. It serves several functions: (1) It puts an end to the combination or conspiracy when that is itself the violation. (2) It deprives the antitrust defendants of the benefits of their conspiracy. (3) It is designed to break up or render impotent the monopoly power which violates the Act.' 334 U.S.

at 128–29.

"Because of the drastic effects which may result from a decree of dissolution, divestiture or divorcement, there has been considerable discussion and controversy concerning the proper criteria for and judicial attitude toward these

forms of relief." Oppenheim, Federal Antitrust Laws, 1077-78 (1959).

For discussion of these remedies see Attorney General's National Committee to Study the Antitrust Laws, Report 355-58 (1955); American Bar Association Section of Antitrust Law, Antitrust Developments, 1955-1968: Supplement to Report of the Attorney General's National Committee to Study the Antitrust Laws, 1955, 255 (1968); —, An Antitrust Handbook 535-47 (1958); I Hoffmann's Antitrust Law and Techniques, 407-25 (1963); Adams, "Dissolution. Divorcement, Divestiture: The Pyrrhic Victories of Antitrust" 27 Indiana Law Journal 1 (1951); Oppenheim, Timberg and Van Cise, "Symposium-Divestiture as a Remedy under the Federal Antitrust Laws' 19 George Washington Law Review 119 (1950); Timberg, "Equitable Relief Under the Sherman Act" 1950 University of Illinois Law Forum 629; Marcus, "Patents, Antitrust Law and Antitrust Judgments through Hartford-Empire" 34 Georgetown Law Journal 1 (1945); Hale, "Trust Dissolution: 'Atomizing' Business Units of Monopolistic Size," 40 Columbia Law Review 615 (1940); Brown, "Injunctions and Divestiture" 5 American Bar Association Antitrust Section Report (August 1954). In United States v. Grinnel Corp., 384 U.S. 563 (1966) and United States v. DuPont & Co., 366 U.S. 316 (1961), modification denied, 366 U.S. 956 (1961), the Court approved use of divestiture as a remedy against antitrust violations noting that, "Divestiture has been called the most important of antitrust remedies. It is simple, relatively easy to administer, and sure. It should always be in the forefront of a court's mind when a violation of § 7 has been found." 366 U.S. at 330-31.

The use of the injunction against antitrust violators is both less severe and more commonly employed than dissolution or divestment, *Hartford-Empire Co.* v. *United States*, 323 U.S. 386 (1945); *International Salt Co.* v. *United States*,

332 U.S. 392 (1947); Grinnell Corp., supra at 579.

The District Court in any action arising under section 1964 of the Organized Crime Control Act is required to "proceed as soon as practicable to the hearing and determination thereof," and to issue any proper restraining orders or acceptance performance bonds, 18 U.S.C. § 1964 (b).

Section 1964 (c) provides: "Any person injured in his business or property by reason of a violation of section 1962 of this chapter may sue therefor in any

appropriate United States District Court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee." This section is discussed *infra* in connection with the amendments suggested by S. 16.

Defendants against whom a criminal judgment or decree for violation of Title IX has been rendered in favor of the United States are estopped from denying any of the essential elements of the offense in any civil action brought by the

United States, 18 U.S.C. § 1964(d).

The antitrust laws on the other hand provide: "A final judgment or decree heretofore or hereafter rendered in any civil or criminal proceeding brought by or on behalf of the United States under the antitrust laws to the effect that a defendant has violated said laws shall be prima facie evidence against such defendant in any action or proceeding brought by any other party against such defendant under said laws or by the United States under section 15a of this title, as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto: Provided, That this section shall not apply to consent judgments or decrees entered before any testimony has been taken or to judgments or decrees entered in actions under section 15a of this title." 15

U.S.C. § 16(a).

One of the obvious differences between § 1964(d) and 15 U.S.C. § 16(a) is the fact that only the antitrust provisions apply to private plaintiff's. Secondly, § 1964 (d) does not contain the antitrust exceptions for "consent judgments or decrees entered before any testimony is taken." This exception particularly as it applies to pleas of nolo contendere was recently criticized in "Closing an Antitrust Loophole: Collateral Effect for Nolo Pleas and Government Settlements" 55 Virginia Law Review 1334 (1969). Thirdly, while the matters decided in the original government case are only prima facie—and therefore rebuttable, Michigan v. Morton Salt Co., 259 F. Supp. 35 (D. Mich. 1966)—under the antitrust laws, the provisions of § 1964(d) estop the defendant from denying such matters. The purpose of the antitrust provision was twofold—1) to facilitate and expedite private treble damage actions, Minnesota Mining & Manufacturing Co. v. New Jersey Wood Finishing Co., 381 U.S. 311 (1965) and 2) to encourage defendants to enter into consent degrees, Michigan v. Morton Salt Co., supra. However the provision does save the government the expense of having to prove the elements in both the criminal and subsequent civil proceeding and dictum in several cases indicates that the courts would interpret 15 U.S.C. § 16(a) to estop the defendant from denying the elements found in an earlier criminal action in a subsequent civil action brought by the United States, see, Minnesota Mining & Manufacturing Co., supra; Emich Motors Corp. v. General Motors Corp., 340 U.S. 558 (1951) Farmington Dowel Products Co. v. Forster Manufacturing Co., 299 F. Supp. 1048 (D. Me. 1967).

Civil actions under Title IX may be brought in any district where the defendant "resides, is found, has an agent, or transacts his affairs." 18 U.S.C. § 1965 (a). The venue provisions of the antitrust laws are basically the same, 15 U.S.C. §§ 15, 15a, 22. See, American Bar Association Section of Antitrust Law, Antitrust Developments 1955–1968, supra at 41–42 (1968) for venue difficulties

raised by the antitrust sections and 28 U.S.C. § 1391(d).

Section 1965(b) of Title IX providing for the service of process upon parties outside the district in which the action is brought is virtually identical to the antitrust provisions, 15 U.S.C. §§ 5, 10, 25, except that the antitrust provisions apply only to those instances where the United States seeks equitable relief, Oppenheim & Weston, supra, at 898, while § 1965(b) applies to both private treble damage actions, § 1964(c), and governmental actions similar to government antitrust injunction actions in the organized crime field.

Both the provisions of Title IX, § 1964(c), and the antitrust laws, 15 U.S.C. § 23, provide for service of witnesses within 100 miles of the place where the civil trial in which the United States is a party is to be held and for nation-wide service of process for witnesses in criminal cases or with the approval of

the court in civil cases upon a showing of good cause.

The expedition of actions provisions of Title IX, \$1966, closely resemble the antitrust provisions, 15 U.S.C. \$28, except that \$1966 provides a single judge to hear those cases rather than the three judge panel authorized by 15 U.S.C. \$28. Section 28 has been only rarely invoked. Oppenheim & Weston, supra at 829. The more widely used and more extensively criticized aspects of the antitrust expediting provisions involve direct appeal to the Supreme Court from final

decrees of the District Court, 18 U.S.C. §29, United States v. Singer Manufacturing Co., 374 U.S. 174 (1963); Oppenheim & Weston, supra at 828–29. Title IX has no such provision.

Section 1967 states: "In any proceeding ancillary to or in any civil action instituted by the United States under this chapter the proceedings may be open or closed to the public at the discretion of the court after consideration of the

rights of affected persons."

This section apparently codifies the existing inherent power of federal courts to conduct their proceedings in the manner they feel is best calculated to serve the ends of justice. It is also only a slight variation of the law in the antitrust field. The so-called Publicity in Taking Evidence Act, 37 Stat. 731 (1913), 15 U.S.C. § 30, provides that the taking of deposition in equitable antitrust actions brought by the government must be open to the public. However, recently the courts have concluded that this does not preclude a court from issuing a protective order to insure the secrecy of trade secrets and other confidential business matters, United States v. United Fruit Co., 410 F.2d 553 (5th Cir. 1969).

Finally, the authors of Title IX adopted a "Civil investigative demand" provision which closely parallels the Antitrust Civil Process Act. 15 U.S.C. §§1311 to 1314. Both provide for a kind of administrative subpoena duces tecum available prior to the institution of any legal proceedings. For a discussion of the antitrust civil investigative demand see, Perry & Simon, "The Civil Investigative Demand: New Fact-Finding Powers for the Antitrust Division" 50 Michigan Law Review 855 (1960); Decker, "The Investigative Demand" 21 ABA Antritrust Section Report 370 (1962); Carter, "The Background of the Antitrust Civil Process Act," 8 Antitrust Bulletin 873 (1963); Withrow & Litvack. "The Antitrust Civil Process Act—Or the Problems of the Civil Investigative Demand" 20 Business Lawyer 5 (1964); Siegel, "Antitrust Civil Process Act: The Attorney General's Pre-Action Key to Company Files, 10 Villanova Law Review 413 (1965); Lofton, "Investigatory Applications of the Antitrust Civil Process Act," 18 Administrative Law Review 27 (1966); and Oppenheim & Weston, supra at 837. The provisions of Title IX. \$1968, differ from those of the Antitrust Civil Process Act in several ways. First, the antitrust sections apply only to corporations and other "legal entities", not to real persons. §1968 applies to persons including "any individual or entity capable of holding a legal or beneficial interest in property. . . ." § 1961(3). The courts have upheld the antitrust civil investigative demand against Fourth and Fifth Amendment challenges, Hyster Co. v. United States, 338 F.2d 183 (9th Cir. 1964); Petition of Gold Bond Stamp Co., 221 F. Supp. 391 (D. Minn. 1963), aff'd sub nom. Gold Bond Stamp Co. v. United States, 325 F.2d 1018 (8th Cir. 1964). Section 1968 has no provision comparable to 15 U.S.C. §1312(d) which provides for nationwide service of the civil investigative demand. Nor does the section contain any provision like 15 U.S.C. §§1314(d), (3) which punishes as contempt any failure to obey a court order issued pursuant to the authority of the Act, appealability of any such order, and the general applicability of the Federal Rules of Civil Procedure, These ommissions appear to be of little consequence since they merely reiterate points of law already established either as common law or under a general federal statute.

CIVIL REMEDIES UNDER TITLE IX AS AMENDED BY S. 16

The amendments offered by S. 16 seem designed to serve three basic categories: 1) those drafted to minimize differences between the provisions of Title IX and the current antitrust laws; 2) those designed to facilitate the use of the private treble damages provisions of § 1963(b); and 3) those offered to make the provisions of Title IX avoid any shortcomings which may still exist in the antitrust provisions. A number of the changes are semantical. Thus the phrase "without regard to the amount in controversy" would be inserted in several of the subsections thereby clearly indicating that the jurisdiction of the United States District Courts over cases authorized under the civil remedies sections of Title IX are "federal question" cases and the jurisdiction of the federal courts is not invoked on the basis of "diversity" which would require a minimum jurisdictional amount, 28 U.S.C. §§ 1331, 1332.

Henceforth the provisions of Title IX as amended by S. 16 and corresponding antitrust sections will be set forth with those parts of Title IX which S. 16 would omit enclosed in brackets [] and new wording underlined.

[(c)](e) Any person injured in his business or property by reason of [a] any violation of section 1962 of this chapter may [sue therefore in any appropriate United States district court] bring a civil action in a district court of the United States, without regard to the amount in controversy, and shall recover threefold the actual damages [he sustains] sustained by him, and the cost of the [suit] action, including a reasonable attorney's fee.

15 U.S.C. § 15. Any person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue therefor in any district court of the United States in the United States in the district in which the defendant resides or is to found or has an agent, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the cost of the suit, including a reasonable attorney's fee.

While for many years the treble damage actions by private plaintiffs were rare, since the early 1950's they have become an important avenue of antitrust enforcement, Attorney General's National Committee to Study the Antitrust Laws Report 378 (1955); Alioto, "The Economics of a Treble Damage Case" 32 ABA Antitrust Law Journal 87 (1966) both cited in Oppenheim & Weston, supra at 8745.

For purposes of the antitrust statutes "person" includes "corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foreign country." 15 U.S.C. § 12, while Title IX states "'persons' includes any individual or entity capable of holding a legal or beneficial interest in property. 18 U.S.C. § 1961(3). Municipal corporations, Chattanooga Foundry & Pipe Works v. Atlanta, 203 U.S. 390(1906): states, Georgia v. Evans, 316 U.S. 159 (1942); and even federal agencies, Tennessee Valley Authority v. General Electric (20, 209 F. Supp. 197 (E.D. Pa. 1962), have been permitted to sue for treble damages to protect their proprietary" interests.

The question of who constitutes a "person" for purposes of a treble damage action is closely related to the issue as to who has standing to bring such an

action. See, Malina & Blechman, "Parens Patriae Suits for Treble Damages Under the Antitrust Laws" 65 Northwestern University Law Review 193 (1970).

"As early as 1910, the Third Circuit denied standing to a stockholder-creditor of a corporation forced to bankruptcy by defendant's antitrust violations. The court based its decision upon the lack of an individual right of action and the remoteness of the plaintiff's claim. [Loeb v. Eastman Kodak, 183 Fed. 704 (3d Cir. 1910).] Similarly, recent court decisions have found a sufficient adverse effect upon officers, directors, and employees of an injured corporation. [Nichols v. Spencer International Press, Inc., 371 F. 2d 332 (7th Cir. 1967). . . .] but not upon a partner in an injured business partnership [Coast v. Hunt Oil Co., 195 F. 2d 870 (5th Cir. 1952)]; a landlord of an injured lessee [Erone Corp. v. Skouras Theaters Corp., 166 F. Supp. 621 (S.D.N.Y. 1057); although standing was recognized where the tenant was a participant in the antitrust violation, Congress Building Corp. v. Loew's, Inc., 246 F. 2d 587 (7th Cir. 1957), contra, Melrose Realty Co. v. Loew's, Inc., 234 F. 2d 518 (3d Cir. 1956)]: a supplier of an injured customer [Volasco Products Co. v. Fry Roofing Co., 308 F. 2d 383 (6th Cir. 1962)]; a patent owner claiming royalty losses attributable to injuries to his licensee [Productive Inventions, Inc. v. Trico Products Corp., 244 F. 2d 678 (2d Cir. 1957)]; an insurance agent representing an injured underwriter [Miley v. John Hancock Mutual Life Insurance Co., 148 F. Supp. 299 (D. Mass. 1957)]; members of an injured association [Schwartz v. Broadcasting Music, Inc., 180 F. Supr. 322 (S.D.N.Y. 1959)]; and a franchisor of injured franchisees [Nationwide Auto Appraiser Service, Inc. v. Association of Casualty & Surety Cos., 382 F. 2d 925 (10th Cir. 1967)].

"While standing to sue has generally been denied in instances of a 'derivative' less [Mortens v. Barrett, 245 F. 2d 844 (5th Cir. 1957)], the courts are tending to find that a litigant has met the injury-standing test if the claimant 'was within the target area of the illegal practices, and was not only hit, but was aimed at' 1 Karseal Corp., v. Richfield Oil Corp., 221 F. 2d 358, 365 (9th Cir. 1955). . . .]. The 'target area' theory or principle appears to offer a means to resolve oft-times perplexing questions raised by the less flexible 'direct-indirect' test of standing, involved with rigid proximate causal relationships [Harrison v. Paramount Pictures, Inc., 115 F. Supp. 312 (E.D.Pa. 1952) aff d, 211 F. 2d 405 (3d Cir. 1954), cert, denied, 348 U.S. 828 (1954). . . .]. A 'relevant market' evaluation has been relied upon in some instances to determine standing [Sanitary Milk Producers v.

Bergjams Farm Dairy, 368 F. 2d 679 (8th Cir. 1966)]. [(footnotes abridged and summarized) Antitrust Developments 1955-1968, supra, 279-80 (1968).].

Under the antitrust laws, the plaintiff must establish a direct injury to his business or property before he may recover any damages, Foster & Kleiser Co. v. Special Site Sign Co., 85 F. 2d 742 (9th Cir. 1936); Burnham Chemical Co. v. Borax Consolidated, 170 F. 2d 569 (9th Cir. 1948) and the plaintiff here encounters many of the same problems raised over the issue of standing discussed, supra, page 15. Since the wording of the two are the same, there is no reason to believe that the treble damage section of the Organized Crime Control Act would be interpreted any different than the antitrust cases.

While the phrase "forbidden by the antitrust laws" has caused some problems with regard to exactly what laws were envisioned, Hershel California Food Products v. Hunt Foods, 119 F. Supp. 603 (N.D. Cal. 1954), the language of the Organized Crime Control Act is less general and should encounter no such difficulties. Although it could be argued that the difference between "forbidden by the antitrust laws" and "violations of this chapter" requires a prior conviction in the second case not necessary in the antitrust situation, use of the term "violation" elsewhere in the antitrust laws would weigh heavily against such

an interpretation, see e.g., 15 U.S.C. §§ 4, 25, 26.

While the antitrust treble damage provisions do not use the term "actual" damages found in the Organized Crime Control Act as amended by S. 16, the legislative history of 15 U.S.C. § 15a where that term is used indicates that the only difference between the "actual damages" of § 15a and the "damages" of § 15 at that those in § 15 are trebled, S. Rep. No. 619, 84th Cong., 1st Sess., 3 (1955). The courts have handled the question of proof and measure of damages

in a number of ways.

"One commentator has summarized the applicable principles as found in antitrust cases as follows: 'The law of damages is ordinarily concerned with the amount of the plaintiff's losses. In the antitrust cases the plaintiff has not "lost" anything in the usual sense of that word, but his activities have been interfered with in such a way as to impair his chances for success in business. In deciding how he should be compensated for the unlawful interference, the courts have relied on four kinds of evidence: (1) estimates by experts of what the plaintiff would have earned: (2) comparison with plaintiff's earnings in a prior period; (3) comparison with defendant's earnings or those of a comparable competitor; (4) the difference in prices charged plaintiff and his competitor'." [Clark, The Treble Damage Bonanza: New Doctrines of Damages in Private Antitrust Suits, 52 Mich. L. Rev. 363 at 413 (1954).]

"The theories and methods of proof relied on in antitrust treble damages actions have required decision of a great many legal and factual issues by the courts.

Set forth below are references to some important recurring issues.

"1. The Eastman and Story Parchment Cases. . . . [I]n Eastman Kodak Co. v. Southern Photo Materials Co., 273 U.S. 359 (1927) . . . [t]he theory of damages upheld by the Court was that plaintiff (a dealer to whom defendant-manufacturer had discontinued sales) was entitled to recover, 'as the loss of profits which it would have realized had it been able to continue the purchase of defendant's goods, the amount of its gross profits on the defendant's goods during the four years preceding the period in suit, which was shown, less the additional expense which it would have incurred in handling the defendant's goods

during the four years' period in suit, which was established.

"In Story Parchment Co. v. Paterson Parchment Paper Co., 282 U.S. 555 (1931). . . . [t]he judgment for plaintiff . . . [was] reinstated by the Supreme Court . . . based upon two factors: (1) the difference between the 'amounts actually realized by plaintiff and what would have been realized by it from sales at reasonable prices except for the unlawful acts of the respondents: and (2) the amount of depreciation of paintiff's property as a result of such acts. . . . The Court concluded, in a statement frequently quoted, that: 'Nor can we accept the view of the court that the verdict of the jury, insofar as it includes damages for the first item, cannot stand because it was based upon mere speculation and conjecture. . . . It is true that there was uncertainty as to the extent of the damage, but there was none as to the fact of damage; and there is a clear distinction between the measure of proof necessary to establish the fact that petitioner had sustained some damages and the measure of proof necessary to enable the jury to fix the amount. The rule which precludes the recovery of uncertain damages applies to such as are not the certain result of the wrong, not to those damages which are definitely attributable to the wrong and only uncertain in respect to their amount. . . .

"2. The Bigelow Case Bigelow v. RKO Radio Pictures, Inc., 327 U.S. 251 (1946) . . . has been generally recognized as an important liberalizing factor in the modern tendency to reduce the number of obstacles faced by a plaintiff in attempting to prove damages arising out of antitrust violations. . . . Plaintiff used two methods to establish damages based upon loss of anticipated profits: (1) The so-called 'yardstock theory'—a comparison of earnings of its theatre with those of a competing theatre which was comparable in size but not as desirable in location, equipment and attractiveness to patrons . . . (2) The 'before and after theory'—a comparison of the receipts of plaintiff's own theatre less cost of film for the five-year period of the conspiracy with the corresponding receipts of plaintiff's theatre for the four years immediately preceding the conspiracy. . . . The Supreme Court reinstated the jury verdict . . . for plaintiff, indicating that it was proper for the jury to use the comparison of plaintiff's theatre receipts 'before and after' the conspiracy. The Court also indicated that both methods of proof 'tended to show damage' and 'were not mutually exclusive' as the court below thought.

"3. Damage Measured by Loss of Profits Based on Defendant's or Competitor's Earnings ("The Yardstick Theory"), Milwaukee Townee Corp. v. Loew's Inc., 190 F. 2d 561 (7th Cir. 1951); Richfield Oil Corp. v. Karseal Corp., 271 F. 2d 709

(9th Cir. 1959)

"4 Damage Measured by Loss of Profits Based on Comparison with Plaintiff's Prior Earnings ('Before and After' Theory), Threatre Investment Co. v. RKO Radio Pictures, Inc., 72 F. Supp. 650 (W. D. Wash. 1947); American Crystal Sugar Co. v. Manderville Island Farms, 195 F. 2d 622 (9th Cir. 1952); Flintkote

Co. v. Lysfjord, 246 F.2d 368 (9th Cir. 1957).

"5. Damages Representing Defendant's Profits. The courts have not displayed a tendency to establish a rule of awarding treble damages on the equitable theory of recovery of defendant's profits (as distinguished from plaintiff's losses). However, in Twentieth Century-Fox Film Corp v. Brookside Theatre Corp., 194 F.2d 846 (8th Cir. 1952), the court, while not expressly adopting this theory of recovery, indicated that defendant's profits in operating a threatre from the time they forced plaintiff to sell them its long lease on the theatre were a reasonable

basis for estimating plaintiff's loss....

"6. Export Testimony. A few of the cases have turned up the reliability of expert testimony... Bordonaro Theatres, Inc v. Paramount Pictures, 176 F.2d 594 (2d Cir. 1949)... Sablosky v. Paramount Film Distributing Corp., 137 F. Supp. 929 (E.D.Pa. 1955)... The dangers of relying on expert testimony, which must necessarily be based upon assumptions any one of which if unfounded could be fatal, are suggested by Herman Schwabe, Inc. v. United Shoes Machinery Corp., 297 F.2d 906 (2d Cir. 1962)... Other cases disregarding expert testimony on the ground that it was sumrise, conjecture or guesswork, or was based on an improper method, include Volasco Products Co. v. Lloyd A. Fry Roofing Co., 308 F.2d 383 (6th Cir. 1962); Delaware Valley Marine Supply Co. v. American Tobacco Co., 184 F. Supp. 440 (E.D.Pa. 1960)...

"7 Loss of Specific Sales or Customers. When the plaintiff seeks to recover for the loss of specific sales or customers, the measure of damages generally presents less of a problem than situations where damages for general business profits are

sought....

"8. Damages for Exclusion from a Business. In addition to difficulties of establishing an injury to their 'business or property'...antitrust plaintiffs seeking to recover damages because of being excluded from business by the defendant face problems of proof damages. In William Goldman Theatre, Inc., v. Locw's, Inc., 69 F.Supp. 103 (E.D.Pa. 1946)... the court stated: 'Of course, when the plaintiff has no established business showing potentially of profits to start with, it will not be so easy for him to produce evidence from which profits can be determinted with any degree of certainty, and in most cases it has turned out that he was unable to do so. But there is no logic or sound policy in a rigid rule that will foreclose him if his evidence, withiut it, is sufficient to get the Court beyond the guessing stage.' The award was based on the average profits of defendant's first run theatres, diminished because of plaintiffs' theaters' inferior location, equipment, and reputation.

"9. The "Pass-On" Case . . . Oppenheim & Weston, supra at 884-89."

The "pass-on" defense first successfully raised in Kcogh v. Chicago & Northwest Railway, 260 U.S. 156 (1922) basically provides that the plaintiff cannot recover as damages any amount of an overcharge caused by the defendant's antitrust violations where the plaintiff passes on all or part of that overcharge to his customers. In the early 40's the Oil Jobber cases, Twin Ports Oil Co. v. Pure Oil Co., 119 F.2d 747(8th Cir. 1941), inter alia, refined and perfected the

defense. However, in Hanover Shoe, Inc. v. United Shoe Machinery Corp., 185 F. Supp. 826 (M.D.Pa. 1960), the court rejected the doctrine "where the plaintiff is a consumer of the product, rather than a middleman who resells it, he may recover the excess paid whether or not he has ultimately passed the excess along to his customers," id. at 831. This rationale was further excepted in the Electrical Equipment cases, Atlantic City Electric Co. v. General Electric Co., 226 F. Supp. 59 (S.D.N.Y. 1964), inter alia. Finally in 1968, the United States Supreme Court emaciated the defense by holding that it was only available where the defendant could overcome the "normally . . . insurmountable burden of proving (1) the plaintiff raised his prices in response to, and in the amount of the overcharge; (2) his margin of profit and total sales had not thereafter declined; and he could not or would not have raised his prices about the overcharge or maintained the highest price had the overcharge been discontinued." Antitrust Developments, 1955-68, supra at 302, exercising poetic license to summarize accurately statement of the Court in Hanover Shoe, Inc. v. United Shoe Machinery Corp., 392 U.S. 481 at 493 (1968).

Under both the antitrust laws and the Organized Crime Control Act costs of the suit include "a reasonable attorney's fee." "An enumeration of elements to be considered in determining "reasonable attorney's fees" was set forth in Bal Theatre Corp. v. Paramount Film Distributing Corp., [206 F. Supp. 708 (N.D. Cal. 1962)]. Four criteria would appear to have general application: (a) the nature of the legal questions involved and associated skill in treating these issues; (b) the customary bar charges for similar services; (c) the standing reputation of counsel; and (d) the beneficial result by plaintiff's attorney, including the

amount, Antitrust Developments, 1955–68, supra at 310."

However, in Farmington Dovel Products Co. v. Forster Manufacturing Co., Inc., 297 F. Supp. 924 (D.Me. 1969), the court refused to award a "reasonable attorney's fee" where the successful plaintiff and his attorney had agreed that the lawyer's fee should include one-third of any recovery plus the statutory award

of a reasonable fee.

Given the similarity of language and circumstances between the antitrust provisions and those of the Organized Crime Control Act, there is no reason to believe that many of these principles and problems would be applicable to both types of cases. For a discussion of damages generally, see, Kaapcke, "Proof and Measure of Damages in Antitrust Cases" 1966 Antitrust Law Symposium 143; Greenwald, "The Measure of Damages in Private Antitrust Suits" 5 Antitrust Bulletin 293 (1960); ——, "Capitalized Pricing of Injury to Capital in Treble Damage Suits" 45 Cornell Law Quarterly 84 (1959); McConnell, "Proof of Damages in an antitrust Case, 7 Antitrust Bulletin 39 (1962); Johnston, "Damages under Section 4 of the Clayton Act from the Perspective of Defense Counsel" 7 Antitrust Bulletin 87 (1962); Rowley, "Proof of Damages in Antitrust Cases" 32 Antitrust Law Journal 75 (1966); Timberlake, Federal Treble Damage Actions, ch. 21 (1965); Note, "Private Treble Damage Antitrust Suits: Measure of Damages for Destruction of All or Part of a Business" 80 Harvard Law Review 1566 (1967); Antitrust Developments, 1955-68, supra; Oppenheim & Weston, supra.

§ 1964 AS AMENDED BY S. 16

ANTITRUST PROVISIONS

[(d)] (g) A final judgment or decree rendered in favor of the United States in any criminal or civil action or proceeding [brought by the United States under this chapter shall estop the defendant I from denying the essential allegations of the criminal offense] in any subsequent civil proceeding [brought by the United States] as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto.

15 U.S.C. § 16(a) (a) A final judgment or decree hereafter rendered in any civil or criminal proceeding brought by or on behalf of the United States under the antitrust laws to the effect that a defendant has violated said laws shall be prima facie evidence against such defendant in any action or proceeding brought by any other party against such defendant under said laws or by the United States under section 15a of this title, as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto: Provided, That this section shall not apply to consent judgments or decrees entered before any testimony has been taken or to judgments or decrees entered in action under section 15a of this title.

The applicability of this subsection to the United States has already been discussed. The amendments provided by S. 16 relate primarily to making the subsection applicable to private plaintiffs. There are obvious differences between the subsection of the Organized Crime Control Act as it would be amended by S. 16 and 15 U.S.C. § 16a. First, the unavailability of consent judgment and United States damage suits would be eliminated. Second, while under the antitrust provisions matters litigated in an earlier case decided in favor of the United States are only prima facie and therefore rebuttable in subsequent cases, the defendant is completely barred from contesting matters resolved in an earlier Organized Crime Control case in any subsequent civil action under the Act. As noted earlier, the inability of private parties to use the provisions of 15 U.S.C. § 16(a) where earlier governmental action resulted in either a consent decree or a nolo contendere plea has recently been severely criticizd, "Closing an Antitrust Loophole: Collateral Effect of Nolo Pleas and Government Settlements" 55 Virginia Law Review 1334 (1969); Korman, "The Antitrust Plaintiff Following in the Government's Footsteps" 16 Villanova Law Review 57 (1970); "Consent Decrees and Treble Damages: More Effective Antitrust Enforcement' 4 Georgia Law Review 593 (1970).

Some of the provisions are common to both. Thus, the antecedent case in favor of the United States must be final before it can be used in a subsequent private action. "The statutory requirement that the judgment or decree be final before it may be admitted into evidence in a subsequent proceeding contemplates a 'final disposition of the case, i.e., a final judgment by reason of an affirmance of the appeal by the court of last resort.' Twin Ports Oil Co. v. Purc Oil Co., 26 F. Supp. 366, 369 (D.C.Minn. 1939)...." International Shoe Machine Corp. v. United Shoe

Machinery Corp., 315 F.2d 449, 457 (1st Cir. 1963).

Theoretically under the provisions of § 16(a). "for the private plaintiff to gain any benefit from the government decree, it must be shown that if the Government were in the plaintiff's position, the defendant would be estopped from relitigating certain issues by virtue of the former decree," Shores, "Treble Damage Antitrust Suits: Admissibility of Prior Judgments under Section 5 of the Clayton Act" 54 Iowa Law Review 434, 445 (1968). There is some question whether the advantage is quite so clear cut, Hardy, "The Evisceration of Section 5 of the Clayton Act" 49 Georgetown Law Journal 44 (1960). In the landmark case on this question, the Supreme Court has declared: "The evidentiary use which may be made under § 5 of the prior conviction . . . is . . to be determined by reference to the general doctrine of estoppel. . . . Such estoppel extends only to questions "distinctly put in issue and directly determined" in the criminal prosecution." Emich Motors Corp. v. General Motors Corp.. 340 U.S. 558, 568–69 (1951).

Thus, while the statute eliminates the necessity of identity of the parties, an

identity of issues must be established.

"Exactly what issues were adjudicated in the prior case can be a difficult question, particularly where a general judgment or verdict without special findings is involved. In this situation, the trial judge hearing the private suit must determine what was adjudicated in the antecedent suit by an examination of the record, including the pleadings, evidence submitted, the instructions under which the jury arrived at its verdict and any opinions of the courts." [Id. at 569]

"In determining whether identity of issues exists, at least three factors are important: (1) Do both suits involve the same period of time? (2) Do they involve the same geographic area? (3) Do they involve the same product? In general, unless each of these questions can be answered affirmatively, the government decree is not admissible since the issues in the two suits are not identical and are therefore beyond the scope of collateral estoppel." [Timberlake, *supra* at 257] Shores, *supra* at 445–46.

While there may be some deviations from this standard, Gottesman v. General Motors Corp., 414 F.2d 956 (2d Cir. 1969) (relaxing the time restriction), some

writers question the effectiveness of the provision:

"Despite language in cases which indicates that the purpose of Section 5(a) is to give private litigants a formidable weapon, [Y & Y Popcorn Supply Co. v. A.B.C. Vending Corp., 263 F. Supp. 709 (E.D. Pa. 1967)] its actual accomplishments may be somewhat less potent. In no way does it measurably decrease the overwhelming task of discovery. . . Nor has the experience shown that it either decreases the length of time from inception to ultimate disposition of an antitrust case or the actual length of trial.

"It is highly unlikely that a lawyer in an antitrust case would limit the presentation of his case to the jury to damages, relying for proof of liability on the relevant portions of the indictment and the guilty plea, or on instructions as to the findings in the prior government case. In the first place, the government in its enforcement of the antitrust laws need not press for an indictment which

necessarily covers the full scope and depth of an antitrust conspiracy....

"Secondly, the private plaintiff must still satisfy the jury (or trial court) that he was injured as a result of the antitrust violation and must establish the amount of the damages.

"Thirdly, as long as the prima facie section gives the defendant the opportunity to rebut, reliance upon the guilty plea or the prior findings alone would merely

shift the order of proof....

"Finally, plaintiffs' lawyers generally believe that the jury in dealing with the assessment of damages, complex and difficult in any antitrust case, would be hard put to understand the impact of the conduct on the price of the product, without the background material about the conspiracy to put the matter into context...." Korman, supra at 69-70.

The amendments of S. 16 to the Organized Crime Control Act would eliminate some of these alleged shortcomings of the antitrust provisions by changing the effect from prima facie to absolute estoppel. However, the difficulty of gleaning any very extensive evidence particularly from convictions based on guilty pleas would appear at least as persistent in organized crime cases as in antitrust situations.

§ 1964 AS AMENDED BY S. 1.6

ANTITRUST PROVISIONS

(c) Any person may institute proeredings under subsection (a) of this section. In any proceeding brought by any person under subsection (a) of this section, relief from threatened loss or damage in other cases. Upon the execution of proper bond against damages an injunction *improvidently* granted and a showing of immediate danger of irreparable loss or damage, a preliminary injunction may be issued in any action before determination thereof upon its merits.

15 U.S.C. § 26. Any person, firm, corporation, or association shall be entitled to sue for and have injunctive relief, in any court of the United States having jurisdiction over the parties, against threatened loss or damage by violation of the antitrust laws, including section 13, 14, 18 and 19 of this title, when and under the same conditions and principles as injunctive relief against threatened conduct that will cause loss or damage is granted by courts of equity, under the rules governing such proceedings, and upon the execution of proper bond against damages for an injunction improvidently granted a showing that the danger of irreparable loss or damage is immediate, a preliminary injunction may be issued: ...

On their faces these two provisions seem basically the same with regard to the availability of private injunctive relief and different in that the amended version of the Organized Crime Control Act permits a private party to invoke the equitable power of the court as spelled out in § 1964 (a) including the power to order divestiture, dissolution and divorcement. However, while "[t]he courts have differed as to whether divestiture is a remedy available to private litigants, and, to date, no court has ordered divesture in a private suit," Antitrust Developments, 1955-68, supra at 98, recent cases might indicate that the amended version of § 1964 is a codification of the way in which some courts have been interpreting 15 U.S.C. § 26. As the court in Burkhead v. Phillips Petroleum Co., 308 F. Supp. 120, 126–27 (N.D. Cal. 1970), noted:

At least as to divestiture, however, the point is still not fully settled. In Ames Co. v. Bostitch, Inc., supra, 240 F. Supp. at 526, the court declared divestiture to be a form of injunctive relief (and hence cognizable under Clayton Act sec. 16 [15 U.S.C. sec. 26]). The court concluded on this point: "Neither decision [American Crystal Sugar Co. v. Cuban-American Sugar Co., 152 F. Supp. 387 (S.D.N.Y. 1957 aff'd 259 F. 2d 524 (2d Cir. 1958) and Schrader v. National cited and discussed] holds that divestiture may never be granted under any circumstances in a private action under Section 16. No case has been found that does so hold. I see no valid reason for accepting such a proposition. The statute does not distinguish between types of injunctive relief. Any type would seem to be permissible, when it is appropriate. The question of the nature and extent of the remedy to be decreed, in the event that plaintiff prevails, is a question for the trial court, to be determined after all the evidence is in. The court should

not attempt to determine it in advance of trial upon a motion." (Emphasis added.)

We are inclined to agree with this conclusion that divestiture *may* be an appropriate form of relief under Clayton Act sec. 16 and that we should not rule out the possibility of such relief at this point. While divestiture would appear to be appropriate only in a limited number of cases where no other form of preventive relief would suffice, one such case where divestiture might be the only adequate and complete remedy would be where, as here, plaintiff alleges a monopoly in restrain of trade which is injuring the plaintiff. (Emphasis of the court.)

SEC. 1964 AS AMENDED BY S. 16

ANTITRUST PROVISIONS

(b) Whenever the United States is injured in its business or property by reason of any violation of section 1962 of this chapter, the Attorney General may bring a civil action in a district court of the United States, without regard to the amount in controversy, and shall recover the actual damages sustained by it, and cost of the action.

15 U.S.C. sec. 15a Whenever the United States is hereafter injured in its business or property by reason of anything forbidden in the antitrust laws it may sue therefor in the United States district court for the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover actual damages by it sustained and the cost of suit.

Title IX of the Organized Crime Control Act does not permit the United States to bring a civil action to recover damages for violations of sec. 1962. S. 16 would amend the Act to provide such a remedy. Such a cause of action is virtually identical to that afforded the government by 15 U.S.C. sec. 15a. In United States v. Cooper Gorp., 312 U.S. 600(1914), the United States Supreme Court held that the United States could not be considered a "person" for purposes of recovering treble damages for antitrust violations. Section 15a was enacted to enable the United States to recover damages in such a case. The section provides only for "actual damages" rather than treble damages because: "The damages 'persons' are trebled so that private persons will be encouraged to bring actions which, though brought to enforce a private claim, will nonetheless serve the public interest in the enforcement of the antitrust laws. The United States is, of course, charged by law with the enforcement of the antitrust laws and it would be wholly improper to write into the statute a provision whose chief purpose is to promote the institution of proceedings. The United States is, of course, amply equipped with the criminal and civil process with which to enforce the antitrust laws. The proposed legislation, quite properly, treats the United States solely as a buyer of goods and permits the recovery of the actual damages suffered." S. Rep. No. 619, 84 Cong., 1st Sess. 3 (1955).

Given the similarity of the language a similar interpretation would probably

be given to the provisions of sec. 1964 as amended by S. 16.

Subsection (f) of sec. 1964 as amended by S. 16 provides, "The Attorney General may upon timely application intervene in any civil action or proceeding brought under this chapter, if the Attorney General certifies that in his opinion the case is of general public importance. In such action or proceeding, the United States is entitled to the same relief as if it had instituted the action or proceeding." While the Attorney General may intervene in Federal Trade Commission actions, 15 U.S.C. sec. 21(b): in cases involving the constitutionality of an Act of Congress, 28 U.S.C. sec. 2403; and generally under Rule 24 of the Federal Rules of Civil Procedure, there is no antitrust provision comparable to subsection (f).

SEC. 1964 AS AMENDED BY S. 16

ANTITRUST PROVISION

(h) Except as hereinafter provided, any civil action under this section shall be barred unless it is commenced within five years after the cause of action accrued. Whenever any civil or criminal action or proceeding, other than an action under subsection (d) of this section, is brought or intervened in by the

15 U.S.C. sec. 16(b) Whenever any civil or criminal proceeding is instituted by the United States to prevent, restrain or punish violations of any of the antitrust laws, but not including an action under section 15a of this title, the running of the statute of limitations in respect of every private right of action

United States to prevent, restrain, or punish any violation of section 1962 of this chapter the running of the period of limitations prescribed by this subsection with respect to any cause of action arising under subsections (c) and (e) of this section, which is based in whole or in part on any matter complained of in such action or proceeding by the United States, shall be suspended during the pendency of such action or proceeding by the United States and for two years thereafter.

arising under said laws and based in whole or in part on any matter complained of in said proceeding shall be suspended during the pendency thereof and for one year thereafter; Provided however, that whenever the running of the statute of limitations in respect of a cause of action under section 15 of this title is suspended hereunder, any action to enforce such cause of action shall be forever barred unless commenced either within the period of suspension or within four years after the cause of action accrued.

15 U.S.C. sec. 15b: Any action to enforce any cause of action under sections 15 or 15a of this title shall be forever barred unless commenced within four years after the cause of action accrued....

There are some obvious differences between the provisions of sec. 1964 as amended by S. 16 and the antitrust provision. Perhaps the most apparent is that sec. 1964 would impose limitations of five years without suspension by government action and of two years after such suspension whereas the antitrust limitations are for four years and one year respectively. The second is that sec. 1964 would permit suspension of the limitation period in cases of government intervention; while the antitrust provisions have no comparable intervention sections and contain no such tolling provision. However, as to other aspects the two provisions seem the same and the interpretations given the antitrust statutes of limitations.

tions should apply to those of sec. 1964.

For purposes of the statute of limitations, a conspiracy is said to be a continuing violation and thus the statute does not begin to run until the conspiracy is abandoned. United States v. Kissel, 218 U.S. 601 (1910). By the same token, the statute of limitations for private actions does not begin to run as long as there is in existence a conspiracy injurious to the plaintiff, Hanover Shoe, Inc. v. United Shoe Machinery Corp., 392 U.S. 481 (1968) or more precisely with the last overt act of the conspiracy, Petro v. Madison Square Garden Corp., 384 F. 2d 682 (2d Cir. 1967); Gareliek v. Goerlich's, Inc., 323 F. 2d 854 (6th Cir. 1963). The statute of limitations may be tolled either by duress, service of a complaint, fraudulent concealment or by statute. Duress tolls the running of the statute of limitations where "the plaintiff who was precluded from bringing an action by the defendant's undue influence or duress had been totally dominated by the defendant and for reasons of economic or physical fear had not brought suit within the required time," International Railways of Central America v. United Fruit Co., 254 F. Supp. 233, 240 (S.D.N.Y. 1966); Philov v. Radio Corp. of America, 186 F. Supp. 155 (ED. Pa. 1960). Filing of a complaint tolls the statute of limitations regardless of whether or not the plaintiff thereafter diligently attempts to obtain service of process, Moore Co. of Sikeston v. Sid Richardson Carbon & Gasoline Co. 347 F. 2d 921 (8th Cir. 1965). Generally where the antitrust violation has been fraudulently concealed or is "self-concealing" the statute does not begin to run until the defendant knows or should have known of the violations, Atlantic City Electric Co. v. General Electric Co., 207 F. Supp. 613 (S.D.N.Y. 1962); Kansas City v. Federal Pacific Electric Co., 310 F. 2d 271 (8th Cir. 1962); Public Service Co., v. General Electric Co., 315 F. 2d 306 (10th Cir. 1963); Allis-Chalmers Manufacturing Co. v. Commonwealth Edison Co., 315 F. 2d 558 (7th Cir. 1963); Westinghouse Electric Corp. v. Pacific Gas & Electric Corp. v. City of Burlington, 326 F. 2d 691 (D.C. Cir. 1964); General Electric Co. v. City of San Antonio, 334 F. 2d 480 (5th Cir. 1964). However, the statute is not tolled where concealment is made possible through the plaintiff's negligence or lack of diligence, Rader v. Balfour, 1968 Trade Cas. para. 72,709 (N.D. Ill. 1968); Picoult v. Ralston Purina Co., 5 Trade Reg. Rep. para. 72.681 (S.D.N.Y. Jan. 20, 1969) both cited in Antitrust Developments, 1955-68, supra 42, 44 (1968-69 Supp.); Starview Outdoor Theatre, Inc. v. Paramount Film Distributing Corp., 254 F. Supp. 855 (N.D. III. 1966). Of course the most obvious method of tolling the statute of limitations is through the provisions of 15 U.S.C. sec. 16(b). As

might be expected, the "pendency" of the government proceeding continues until the time for appeal has expired or a final appeal has been had, *Leonia Amusement Corp.* v. *Loew's Inc.*, 117 F. Supp. 747 (S.D.N.Y. 1953); *Valuskis* v. *Loew's Inc.*, 140 F. Supp. 34 (S.D. Cal. 1956). A difference in defendants between the government's action and that of the private party need not be identical. Thus,

the Supreme Court declared:

"[W]e cannot conclude that a private claimant may invoke Section 5(b) [15 U.S.C. sec. 16(b)] only if the conspiracy of which he complains has the same breadth and scope in time and participants as the conspiracy described in the government action on which he relies. Here there is substantial identity of parties. . . . In suits of this kind, the absence of complete identity of defendants may be explained on several grounds. . . . [S]ome of the conspirators . . . whose activities injured the private claimant may have been too low in the conspiracy to be selected as named defendants or co-conspirators in the government's necessarily broader net." Leh v. General Petroleum Corp., 382 U.S. 54, 63(1965), quoted in Antitrust Developments. 1955-68, supra at 288.

In the same vein, the defendants need not have been named as either co-defendants or coconspirators in the earlier government action, $Hardy\ Salt\ Co.\ v.\ Illinois, 377\ F.\ 2d\ 728\ (8th\ Cir.\ 1967).$ Moreover, where a consent decree is entered against one of the defendants the statute does not begin to run against him until the government case against his codefendants is final. $Vermont\ v.\ Cayuga\ Rock\ Salt\ Co.,\ 276\ F.\ Supp.\ 970\ (D.\ Me.\ 1967): New\ Jersey\ v.\ Morton\ Salt\ Co.,\ 387\ F.\ 2d\ 94\ ((3d\ Cir.\ 1967).\ Complete\ identity\ of\ subject\ matter\ is\ also\ unnecessary; here too substantial compliance is all that is required, e.g., see, Union\ Carbon\ &\ Carbon\ Corp.\ v.\ Nisley,\ 300\ F.\ 2d\ 561,\ 570\ (10th\ Cir.\ 1961)\ where the court$

noted:

"These private suits alleged substantially the same conspiracy against the same defendants as in the government suit. They relied upon the same documentary and oral proof to establish the conspiracy, and they also relied "in part" on the same means for the effectuation of the same conspiracy. There was substantial identity of subject matter, and this was sufficient to suspend the running of the statute.

CONCLUSION

The amendments offered to sec. 1964 of the Organized Crime Control Act of 1970 by S. 16 seem to have been drafted to make its provisions more like the antitrust laws, particularly those affording a civil remedy in damages for injured parties. As one writer noted: "Monopolies have long been considered the deadly enemy of free enterprise. Organized crime, one of the most active monopolizers in the American economy, should be subject to the same body of laws as the more traditional monopolizer: If a large retail firm similar to the Atlantic and Pacific Tea Company lowers its prices to a level such that its small independent competitors happen to go bankrupt, that is free enterprise. If, after its competitiors are forced out of business, the large firm raises its prices above those existing when it had competitors, thus forcing consumers to pay a tribute, that is exploitive monopolistic practice. By analogy, rulers of crime syndicates are beginning to drive legitimate businessmen, labor leaders, and other supporters of the ideology of free competition to the wall. They have established, by force, intimidation, and even more 'legal' methods, monopolies in several relative small fields. . . [Cressey, Theft of the Nation 3(1969).] If the law is to retain its meaning, both classes of defendants should face similar guilt. Any other result would be inconsistent with principled application of the law. Note, "Antitrust Enforcement Against Organized Crime" '70 Columbia Law Review 307, 336 (1970).

> CHARLES DOYLE, Legislative Attorney, American Law Division.

Congress of the United States, House of Representatives. Washington, D.C., Vovember 29, 1971.

Hon. John McClellan, Chairman, Senate Subcommittee on Criminal Laws and Procedures, U.S. Senate, Washington, D.C.

DEAR SENATOR McClellan: I understand that the Subcommittee on Criminal Laws and Procedures will on November 30 hold additional hearings on proposals

to establish a law enforcement officers' death benefit plan. I would like to submit for the record the enclosed statement in behalf of my bill on this subject,

HR11673.

I feel strongly that the coverage of this legislation should be expanded in the manner that I suggest and would like to have the opportunity to testify on it should hearings be held again at a later time. I would very much appreciate being informed should the Subcommittee decide to hold more hearings.

Thank you for your cooperation.

With kindest regards. Sincerely,

JAMES V. STANTON, Member of Congress.

STATEMENT OF HON. JAMES V. STANTON, MEMBER OF CONGRESS, 20th District, Ohio

Several proposals to establish a \$50,000 death benefit for the families of law enforcement officers killed in the line of duty have been offered to the Congress. The recent increase in the number of attacks upon police officers has made clear the inadequacies of existing law in providing for the needs of families confronted with such a tragedy, and this highly worthwhile legislation has

been originated as a result.

However, I believe that, in addition to policemen, there are several other categories of public safety officials which deserve coverage in a Federal indemnity plan. Firemen, correctional personnel, including prison guards, and judges and officers of the court, among others, are in contact daily with persons who have demonstrated not only a lack of respect for the law, but also a deep and bitter hatred for it and those who attempt to enforce it. The killing of Judge Harold Haley of the Marin County, California, court, and the Attica prison riot provide ample demonstration of the extraordinary hazards which these officials must face.

Thus I have introduced legislation, H.R. 11677, which would expand the coverage of the indemnity to the following public safety occupations: police, sheriffs, deputy sheriffs, highway patrolmen, firemen, parole and probation officers, investigatory and correctional personnel, alcoholic beverage control agents. judges, magistrates, justices of the peace, and other officers of the court.

Statements I have received from local officials since introducing this bill have strengthened my belief in the need for comprehensive coverage in such a plan. For example, John Gannon, President of the Cleveland Fire Fighters Local 93 has said, "Fire fighting is the most hazardous profession of all, including police and this statement is fact, according to the U.S. Department of

Labor and Federal Bureau of Investigation statistics.

Judge Walter Whitlatch of the Cuyahoga County Juvenile Court summed up the situation in his court by saying, "... when one considers the deranged, angry, hostile individuals, youth and adults, who daily come before the Court there is just no way to belittle the very dangerous situation of the judge who must rule on the cases of these individuals."

John Flanagan, Baliff of the Cleveland Municipal Court, reinforced this view. saying, "In this age, when reason and understanding of the judicial processes are sadly lacking, a guarantee of financial survival must be considered for dependents of court attaches. In my opinion, H.R. 11677 more than adequately compensates in this regard."

Probation officials are confronted with a similar situation. As John Alden, probation officer of the Cuyahoga County Juvenile Court pointed out, "Assaults which have occurred on our people and incipient threats in the form of concealed weapons taken from juveniles and adults worry staff in direct contact with an increasingly militant public.

Our direct service to probationers and in neglect cases has been affected by underlying fears our probation officers have expressed for their safety."

David Rogers of the Ohio Adult Parole Authority has said, "As you have indicated, the Criminal Justice System is not only composed of policemen. There are others: Parole and Probation Officers, Investigatory and Correctional personnel, Alcoholic Beverage Control Agents, Judges, Magistrates, and Officers of the Court; whose role is providing protection to this great nation and all that it stands for.'

By including all of these public safety officials in the death benefit plan, we

would make adequate provision for the security of the families of these officials, and, in a larger sense, affirm that they have the full support of the Federal Government as they attempt to fulfill their role of ensuring domestic tranquility.

I would now like to place in the record copies of some of the letters I have

received to date in support of H.R. 11677.

CLEVELAND POLICE PATROLMEN'S ASSOCIATION,
THE VOICE OF THE PATROLMAN
Cleveland, Ohio, November 23, 1971.

Hon. James V. Stanton, 1107 Longworth Building, Washington, D.C.

Dear Congressman Stanton: As President of the Cleveland Police Patrolmen's Association and Vice-President of the International Conference of Police Associations I wish to express the gratitude of all police officers to you for the introduction of House Bill H.R. 11677, and to your fellow members of Congress who are in support of you on this Bill.

The upholding and enforcement of the law in accordance with the spirit of the Constitution is a monumental task that the vast majority of the police of-

ficers in this Country have dedicated their lives to accomplishing.

All police officers from time to time during the course of their tours of duty get the feeling that they are all 'Alone'. This might be while walking down a dark alley on a burglary call or while facing a man with a gun whom you have just sur-

prised during a holdup in progress.

Police Officers the length and breadth of this great land have demonstrated time and time again the sacrifices they are prepared to make for the safety of the people. These same officers unselfishly concern themselves with the question of the welfare and well-being of their families, wives, and children if they should be killed in the line of duty.

Knowing that their Government cares about the welfare of their families should they be killed in the discharge of their duties will give to police officers peace of mind in this respect and the knowledge that such a supreme sacrifice

is not in vain.

Very truly yours,

JAMES MAGAS.

Ohio Association of Chiefs of Police, Inc., Columbus, Ohio, November 22, 1971.

Re H.R. 11677.

Hon. James V. Stanton, 1107 Longworth Building, Washington, D.C.

My Dear Congressman: On behalf of the Ohio Association of Chiefs of Police,

I would like to wholeheartedly extend my support for the above bill.

This bill would have a tendency to bolster the feelings of all personnel in the Criminal Justice System, knowing they have backing while performing their duties.

This type of bill has been sorely needed for a long time. If I can be of any assistance, please do not hesitate to call me.

Respectfully yours,

HARRY W. HIRD, President, c/o North Olmstead Police Department, 27303 Olmstead Court, North Olmstead, Ohio 44070.

Cuyahoga County Police Chiefs Association, Inc.,

Maple Heights, Ohio, November 22, 1971.

Hon. James V. Stanton, House of Representatives, Washington, D.C.

SIR: At a recent meeting of this organization House Bill was discussed at length and it was a unanimous decision to offer you our support. We strongly feel, as you

do, that the family of any peace officer killed in the line of duty should be assured, at least, that their loved one has not died in vain.

All sixty-one (61) members join in support of this Bill and respect all your efforts in presenting and supporting legislation that enhances law enforcement.

Sincerely yours,

Edward J. Prasek, Secretary-Treasurer.

RALPH J. PERK, Mayor, City of Cleveland, November 18, 1971.

Hon. James V. Stanton, Congress of the United States, House of Representatives, Washington, D.C.

Dear Sir: In reply to your letter of November 12, 1971 I feel I can speak for all of the members of the Cleveland Police Department in heartily supporting your legislation which would provide a \$50,000 Federal death benefit for the family of any public safety or law enforcement officer killed in the line of duty.

We also endorse the extension of this coverage to all law enforcement officers employed on a full-time basis by that state or a unit of general local government

within the state.

The most important thing to any man is the health and welfare of his family. It is, therefore, easy to conclude that a man performing a hazardous duty will be more proficient when he has knowledge that his family will be well provided for in the event of his demise.

When the burden of such responsibilities are provided for, the end results will not only benefit the law enforcement officer's family, but also the general public will be better served,

Very truly yours,

STEVE SZERETO, Acting Chief of Police.

Brooklyn Heights Village, Cleveland, Ohio, November 19, 1971.

Hon. James V. Stanton, 1107 Longworth Building, Washington, D.C.

My Dear Congressman: I have just finished reading H.B. 11677, which you sponsored in the House of Representatives, and would like to add my support to

this much needed piece of legislation.

As you may well remember, this is the first anniversary date of the kidnaping of one of the officers from this Department, Sgt. Ronald Baracz, who was held hostage for over twenty-four hours and finally released after being taken into Pennsylvania and then returned to Ohio. It is only by the grace of God that he is with us today and the kidnaper, James Kelley, is the one who lies in a grave. During those anxious and uncertain hours before his release, many thoughts went through my mind, not the least among them being how his wife and two young daughters would be provided for in the event that he did not return.

You are probably well aware that State and local laws fail to provide adequately for the financial needs of the family in such an event, and therefore

I heartily support this bill.

Very truly yours,

Joseph E. Valine, Chief of Police.

CITY OF MAPLE HEIGHTS,
DEPARTMENT OF POLICE.
Maple Heights, Ohio, November 22, 1971.

Hon. James V. Stanton, House of Representatives, Washington D.C.

My Dear Mr. Stanton: Please be advised that you have the undivided support of the forty nine (49) officers and men in this department, relative to House Bill 11677.

We appreciate sincerely your efforts on the part of law enforcement and assure you of support in matters of this nature.

Sincerely yours,

EDWARD J. PRASEK.
Chief of Police.

THE JUVENILE COURT, Cleveland, Ohio, November 18, 1971.

Re H.R. 11677.

Hon. James V. Stanton, 1107 Longworth Building, Washington, D.C.

DEAR CONGRESSMAN STANTON: Thank you for sending me a copy of H.R. 11677. This is indeed legislation for which there is a real need in these troubled times.

As one who has been engaged in law enforcement and the administration of justice for many years, I am well aware of the extraordinary hazards faced by police and other officers of the law. I don't permit myself to dwell on the imminence of danger to my own person since if I did I'm certain it would destroy my effectiveness as a judge. However, when one considers the deranged, angry, hostile individuals, youth and adults, who daily come before the Court there is just no way to belittle the very dangerous situation of the judge who must rule on the cases of these individuals.

In our Court, and I'm sure in other Courts as well, there are times when the sheriff is unable to supply deputies to provide the necessary security and

hence at such times the ordinary risks are greatly enhanced.

The logic of your legislation is irresistible; most certainly there should be compensation for the occupational hazards of police, probation officers, judges and others engaged in law enforcement and the administration of justice.

Most sincerely,

WALTER G. WHITLATCH.

Judge.

THE JUVENILE COURT.
Cleveland, Ohio, November 16, 1971.

Mr. James V. Stanton, House of Representatives, Washington, D.C.

Dear Mr. Stanton: Thank you for calling my attention to your sponsorship of H.R. 11677 relating to death benefits which might be payable to the survivors

of correctional personnel killed as a result of their employment.

Over the last six years there has been acute concern from time to time about the safety not only of Probation Officers but also on the part of administrative personnel, including the judiciary, as we carry out our function in the community and in the Court. Assaults which have occurred on our people and incipient threats in the form of concealed weapons taken from juveniles and adults worry staff in direct contact with an increasingly militant public.

Our direct service to probationers and in neglect cases has been affected by underlying fears our probation officers have expressed for their safety. Their decision not to go into the field in neighborhoods having high potential hazards to safety has been supported by the administration. As a consequence less dependable service has been given to wards for whom probation has been ordered. Further, to rectify this situation, we are hopeful that an application for Law Enforcement Assistance Administration funding under the Omnibus Crime Control and Safe Streets Act of 1968 may enable us to get a grant to establish neighborhood based offices out of which probation officers and indigenous paraprofessionals may operate to improve our probation service.

Although we are conditioned to expect difficulties on occasion and thus far lave experienced no killings of staff in the line of duty, it would be a comfort to know that this ultimate circumstance would not leave our families destitute and dependent upon public assistance. I therefore support your effort to amend Title I of the Omnibus Crime Control and Safe Streets Act of 1968 and trust

that H.R. 11677 may be enacted.

Sincerely yours,

JOHN J. ALDEN, Director of Social Services. CLEVELAND MUNICIPAL COURT,
DEPARTMENT OF THE BAILIFF,
Cleveland, November 16, 1971.

Hon. James V. Stanton, House of Representatives, Washington, D.C.

Dear Congressman Stanton: I wish to take this opportunity to personally commend you for your efforts in the preparation and introduction of H.R. 11677, which provides for death benefits to survivors of certain public safety and law enforcement personnel.

In this age, when reason and understanding of the judicial processes are sadly lacking, a guarantee of financial survival must be considered for dependents of court attaches. In my opinion, H.B. 11677 more than adequately compensates in this regard.

I therefore earnestly endorse the provisions of your Bill.

Respectfully yours.

JOHN A. FLANAGAN, Bailiff.

County of Cuyahoga, Cleveland, Ohio, November 18, 1971.

Congressman James V. Stanton, 1107 Longworth Building, Washington, D.C.

Dear Congressman Stanton: I appreciate receiving your letter of November 12, 1971 enclosing a copy of your bill identified as H.R. 11677. To emphasize the need for the "Public Safety and Criminal Justice and Correctional Personnel Benefits Act of 1971" would be fatuous. The facts have never been so patent, the crisis never so conspicuous, and the need never so manifest.

I whole-heartedly support this bill and shall encourage the many friends accumulated throughout my twenty-seven years of Law Enforcement at every level—Federal. State, and Local—to do likewise. My support is not only generated from my position as a Peace Officer, but also from my responsibility as a citizen of The United States.

I sincerely hope that this measure will be passed by the Congress of the United States, and that subsequently, similar considerations may be given to the civilian victims of crime as well.

Very truly yours.

RALPH E. KREIGER, Sheriff, Cuyahoga County.

CITY OF BROOKLYN FIRE DEPARTMENT, Brooklyn, Ohio, November 19, 1971.

James V. Stanton, Member of Congress, 20th District, Ohio.

DEAR Mr. STANTON: The members of the Brooklyn Fire Department whole-heartedly support your Bill No. 11677.

We are certainly very appreciative of any consideration you can give to the families, of the members, of our profession, in that time of dire necessity.

Very truly yours,

JOSEPH V. PUCCI, Fire Chief, City of Brooklyn.

OHIO DEPARTMENT OF MENTAL HYGIENE AND CORRECTION, Cleveland, Ohio, November 26, 1971.

Hon. James V. Stanton, 1167 Longworth Building, Washington, D.C.

Dear Sir: It was indeed a great pleasure to have had the opportunity to read the bill you introduced, H.R. 11677. In addition, it is comforting to know that there are men like yourself who will go on record as supporting the total Corrections Spectrum.

As you have indicated, the Criminal Justice System is not only composed of

policemen. There are others: Parole and Probation Officers, Investigatory and Correctional personnel, Alcoholic Beverage Control Agents, Judges, Magistrates, and Officers of the Court; whose role is providing protection to this great nation and all that is stands for.

I have shared your bill with many of my colleagues. All are very grateful to you for the insight you have shown and the bill, H.R. 11677, is supported one

hundred per cent by all.

In addition, I have discussed this bill with R. E. Giannetta, Superintendent of Parole, State of Ohio, and he has not only pledged the support of this Agency, the Adult Parole Authority, but that of the Department of Corrections.

The best of success in getting additional support from your fellow Congressmen

as well as others in the Criminal Justice System.

Sincerely,

David L. Rogers,
Acting Regional Supervisor, Cleveland Region.

DEPARTMENT OF LIQUOR CONTROL, Columbus Ohio, November 15, 1971.

Hon. James V. Stanton, 1107 Longworth Building, Washington, D.C.

Dear Congressman: Your letter and copy of H.R. 1677 is greatly appreciated. It is indeed good to know that as a member of Congress, you are so deeply con-

cerned with the problems of law enforcement.

The "Public Safety and Criminal Justice and Correctional Personnel Benefits Act of 1971" as introduced on November 9, 1971 is comprehensive and covers inadequacies of existing law. This bill presents a vehicle thru which the Congress can manifest its moral and financial support of public servants who are killed in public safety duty. Enactment will be a much needed morale booster and should help furnish impetus to the recruitment of qualified peace officers.

Please consider this to be a letter of endorsement from myself and those men under my supervision. Be assured of the cooperation of this office in matters of

mutual concern.

Very truly yours,

Jerry J. Feiertag, Investigator-in-Charge, Cleveland District.

P.S.—Your letter and copy of bill has been forwarded to my superior, James L. Milburn, Chief of Enforcement Operations, Ohio Department Liquor Control, Columbus, Ohio.

216 NORTH JOHN STREET, Pendleton, Ind., November 30, 1971.

SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURE, 2204 New Senate Office Building,

Washington, D.C.

Dear Sirs: I am pleased to have this opportunity to make a statement pertaining to the subject of compensation for victims of criminal acts and related matters. In order that my opinions below may be properly weighed, it should be noted that I teach at a high school inside the walls of the Indiana Reformatory and that I am in charge of all staff development and training programs in that institution. I am also a second year student at the Indiana University Indianapolis Law School and an associate editor of that school's law review. However, the opinions expressed in this statement are my own and do not necessarily

represent the views of either of the above institutions.

A burglar who is injured by a trap intended to protect a home can be compensated for that injury. Robbers, rapists, and killers are provided free academic and vocational schooling during incarceration. One accused of arson can have, even if he cannot afford it from his own resources, an attorney to defend him. One convicted of assault with intent to kill retains a civil right to personal security, even during imprisonment. All this is as it should be. Indeed, it has been convincingly established that much more should be done to help these criminals. (See, e.g., Comment, 60 GEO, L.J. 225 (1971): 117 CONG, REC, E11272 (daily

ed. October 26, 1971) (reprint of a statement by the Committee on Public Justice); 117 CONG. REC. E11200 (daily ed. October 21, 1971) (reprint of a speech on prison reform given by Representative Anderson); 117 CONG. REC. S16622 (daily ed. October 20, 1971) (remarks of Senator Burdick).) A few recent statements such as Sostre v. Rockefeller and Landman v. Royster indicate that the courts are beginning to understand that prison inmates are human beings who have certain inalienable rights. What is particularly disturbing, however, is that legislators have not had the insight to attempt—except in a few rare instances—to do justice to those who fall victim to criminal acts. The law is now beginning to demand more aid and protection for criminals, and rightfully so; but the law of almost every jurisdiction fails to assist those who are physically, emotionally, and economically plundered by the criminals. The gross inequity of this fact screams for immediate redress.

No form of compensation can make whole a family which has had one of its members victimized by a rapist or a murdered. This does not mean, though, that compensation is not justified. The poor and the culturally deprived are the ones most struck by crime, and studies have indicated that nearly 75% of the victims of crimes suffer economic loss—not to mention the irreparable emotional and physical damage. A truly "just" system of criminal justice should try to assist those whom the state has failed to adequately protect. Prevention of crime, of course, is the goal; but, whenever this goal is not met, monetary compensation

to its victims seems not only fair but essential.

The bills which would provide benefits to the survivors of police officers, prison guards, and firemen killed in the line of duty are also justified by reasoning implicitly from the above statements. However, I think legislation in this area should be broadened to cover those who are called to assist the above workers in their duties. Prison guards are not the only correctional workers, for example,

who might be caught up in the fury of an Attica-type rebellion.

Your subcommittee is about to decide the fate of a number of people who might either be innocent victims of crimes or revolutionary assassinations or riots. I pray that each committee member will weigh his responsibility to those who support criminal justice at least as much as what the responsibility is to the offenders. If that is done, the Congress should approve of both forms of legislation supported by this short memo.

Respectfully submitted,

NILE STANTON.



VICTIMS OF CRIME

MONDAY, MARCH 27, 1972

U.S. Senate,
Subcommittee on Criminal Laws and Procedures
of the Committee on the Judiciary,
Washington, D.C.

The subcommittee met, pursuant to call, at 10:10 a.m., in room 3302, New Scnate Office Building, Senator John L. McClellan (chairman) presiding.

Present: Senators McClellan, Hruska, and Thurmond.

Also present: G. Robert Blakey, chief counsel; Malcolm D. Hawk, minority counsel; Kenneth A. Lazarus, assistant counsel; and Mabel A. Downey, clerk.

Senator McClellan. The committee will come to order.

The Chair will make a brief opening statement.

Today, the Subcommittee on Criminal Laws and Procedures will continue—and hopefully conclude—its hearings on victims of crime.

For too long, the victims of crime have been a forgotten people, left to their own ineffective means and devices to gain recompense for their loss.

For too long, our courageous policemen, firemen, correctional officers and others, who daily put their lives on the line for each of us, have been unable to obtain life insurance, death and disability benefits which are responsive to and commensurate with the grave risks they take and dangers they face daily on our account.

For too long, the families of those who maintain public safety have been neglected by the public after tragedy of health or disability in-

flicted by criminal assaults upon them.

We owe a moral obligation to those ravaged by the scourge of crime, and should afford them some measure of relief from their loss and distress. Our system of criminal justice must in some measure compensate those who are wronged as well as punish those who are

wrongdoers.

S. 2994, the consolidated "Victims of Crime Act of 1972" is a tremendous step forward, and I am confident it will do much to alleviate the plight of a growing segment of our crime-beleaguered population. But let us, here and now, underscore and reiterate that the overriding aim of this subcommittee, the Congress, and our people is to more effectively combat criminal depredations that are being committed in our country and which makes this "Victims of Crime Act" so necessary. That is our goal.

We are rapidly fashioning new legal weapons and strengthening America's crime-fighting arsenal. But let us not underestimate the long, arduous road ahead before the bells toll even a partial victory over the curse of crime.

We must continually strike at crime with all of our energy and with

all of our might.

We must marshal all our forces of decency, law, and order to reverse its destructive tide.

Our commitment is clear: We are determined to make our homes, our streets, and our places of business safe once again.

In doing so, we must provide for those whose great personal sacri-

fices too often mark the tragedy of this battle.

At this time, if there is no objection, I will place in the record, along with previous bills that have been placed in the record, copies of S. 2994, S. 2995, and amendment No. 994 to S. 2994. (See pp. 35–76.)

Before we proceed further, would any of my colleagues like to make

any comment as we open these hearings this morning?

Senator Hruska?

Senator Hruska. Thank you, Mr. Chairman.

I want to commend the Senator from Arkansas for bringing before us for proper hearings, research, and consideration, S. 2994, containing five titles. This proposal, along with others dealing with the same subject already before our subcommittee, will afford us the opportunity for additional hearings.

There are several points of view represented by these bills and by the titles in this one bill. While I do not endorse or approve all of the several parts thereto, I do look forward to the opportunity we

shall have to study this question from every angle.

I am especially gratified and pleased that, in the drafting of his part of the proposal, the chairman of our subcommittee has proven once again his sensitivity to and his respect for the proper role to be played by the Federal Government and the individual States regarding all aspects of law enforcement.

This is one of the questions that several or perhaps all of us will want to continue to examine very closely in our further deliberations

on this subject.

Mr. Chairman, I feel that there is altogether too much talk, discussion, and premature conclusion as to the success of the Federal

Government's progress in dealing with the field of crime.

It is pointed out again and again that notwithstanding the very, very adamant attitude the administration has taken in the field of prevention of crime, and notwithstanding the many legislative acts which the Congress has accounted for in these last 3 or 4 years, crime still exists and, in some instances, has increased.

And, all too conveniently, no mention is made of the progress made in fighting crime and of the areas where there has been a reduction in crime. The latest FBI figures, for instance, show that the rate of crime increase for 1971 is the smallest in many years. In addition, actual crime figures have dropped in 53 major cities, including a 13-percent decrease in the District of Columbia. My own hometown of Omaha is one of those 53 cities. In 1971, it registered a crime decrease of 4.6 percent.

As another illustration, in fiscal year 1971, the Law Enforcement

Assistance Administration had appropriated to it by the Congress \$480 million. In fiscal 1972, almost \$700 million. The present budget request for fiscal year 1973 is \$850 million, and virtually all of that, excepting a small percentage for oversight and for administration, goes to the State and local municipalities for law enforcement purposes.

Now, then, when it is said that crime still prevails, that crime is still of great degree and in certain areas is increasing, it should be borne in mind that the Federal Government has no intention, as far as this Senator is concerned and I do not believe as far as most Senators are concerned, of forming a national police force to undertake the job of policing law enforcement in this Nation. To do so would be contrary to all constitutional concepts that we have in the Federal Constitution.

If there is any fault to be found in the lack of enforcement of the laws throughout the land which are primarily the responsibility of the States and of the municipalities, then that assessment of deficiency should be levied where it belongs. It should be levied against the States and against the municipalities, because the Federal Government, as such, has no police power in a general sense. That belongs to the States and to the municipalities.

The Federal Government has done its share in the appropriations, in the providing of counsel, and in the providing of advice and in many other ways. But it cannot step into the shoes of the local policemen or the sheriff or the State patrol or any other aspects of local law enforcement which account for 90 percent of the effort in this Nation.

Now, this Senator did join in the introducing of this bill so that it may serve as a vehicle for hearings and discussion on this important

general subject.

Again, I say I do not necessarily agree with everything in the bill as presently written and I will have to devote considerable study to it before voting to report it, or any related bill, from the subcommittee.

But I do want to emphasize my support for this general type of legislation and to indicate, again, my gratitude and appreciation to the chairman of this subcommittee for doing the preliminary work on it and for asking me to join as a cosponsor of the bill.

Senator McClellan. Thank you, Senator Hruska.

We are glad to have with us today our distinguished majority leader who is a cosponsor of this bill, and we also welcome Senator Boggs who is also a cosponsor. I am going to yield now to our distinguished majority leader for any statement, Senator, you would care to make at the opening of these hearings this morning.

STATEMENT OF HON. MIKE MANSFIELD, U.S. SENATOR FROM THE STATE OF MONTANA AND MAJORITY FLOOR LEADER OF THE SENATE

Senator Mansfield. Thank you. Mr. Chairman. This is a matter in which I have, along with you and under your leadership in this field, developed a strong personal interest.

We are always talking about the constitutional rights of the criminal but we seem to be, almost always, forgetting about the constitu-

tional rights of the victim.

It appears to me that because of what has been happening in late years and what seems to be happening more and more with the passage of time, despite all of the press reports to the contrary that crime is being reduced, that it is time to face up to the particular problem, to do something for the victims who have suffered the ravages of violent crime and to do it as expeditiously as possible.

The chronicles, daily by the press, on crime are the most heinous by nature. To meet this situation, it seems to me that there has to be created a system of justice that would bring about a reversal of the obstruction of the street versus the criminal which, in turn, has left the victim unappeased, the Government bogged down in court, and

the criminal becoming more expert at his trade.

To be sure, the accused is prosecuted for his crime and if found guilty is punished by the State. But the victims' full recourse within our Federal jurisdiction is to seek damages by instituting a civil ac-

tion against the criminal.

At best, this has been an inadequate remedy, considering the financial condition of most perpetrators of violent crime. In fact, a recent survey of victims of violent crimes indicates a bare 1.8 percent of the victims ever collected anything from their attackers, yet 74.2 percent of them suffered economic loss, not to mention the physical damage and suffering involved. And, as the President's Commission on the Causes and Prevention of Violence has documented so well, this alarming increase in the rate of violent crime has persisted, and, with it, no doubt, the great disparity between those victims who are compen-

sated and those who are not.

It is a policy which I am referring to in this particular bill that abrogates any social contract that is thought to exist between the citizen and his society. The citizen pays his taxes, he obeys the laws imposed by the society, and in return he expects—some would argue on a contractual basis—to be protected by those laws from illegal acts which result in injury and suffering to himself. In short, if society fails in its efforts to provide basic protection, then the social contract has been breached, and the citizen has suffered. To him, there is no particular known punishable recourse available other than perhaps overt apathy, and overt apathy is becoming more and more, I am afraid, the norm among all of our people, or a good many of our people.

In my judgment, this overt apathy or nonparticipation by citizens in regulatory functions of society is about to become a most critical and pressing problem. Today, citizens must recognize that through their plain another than are committing crimes against society.

their plain apathy they are committing crimes against society.

To combat such an attitude, it is my view that we, the elected representatives, ought to become more cognizant of the need for legis-

lation that would encourage and even reward acts that are socially

responsible.

Another aspect of the problem concerns the Government's task of rehabilitating criminals. How much violent crime, it should be asked, is committed at the hands of recidivists who have been released upon society from a penal institution that served only to mold him into a more hardened and bitter criminal than he was when he was first incarcerated?

His innocent victim has been doubly cheated by society. Not only has it failed to protect him with sufficient police and safety facilities, its penal institutions have actually created a more serious threat to law and order by serving as a graduate school for criminals. It has been said that the institutions of justice had become more concerned with the protection of the rights of the criminal than with the need for law and order in society. To an extent, to a large extent, I would agree; but I feel the major emphasis is misplaced. To me a major liability with the present system of criminal justice is its utter failure to consider the innocent victim. This is the whole basis for my interest today in reviving the concept of victim compensation, which, I must repeat, has been initiated under the leadership of the distinguished chairman of this committee, Senator McClellan of Arkansas.

As a matter of public policy, social compensation programs are not revolutionary notions by far; indeed, there is great similarity and rationale in origin between notions of compensating workers, assuring them of a reasonably safe place in which to work, and compensating victims of crime, assuring them a reasonably safe society in which to live. Just as the worker has, historically, been frustrated in his attempts to recover damages, so, too, has the victim of crime today been frustrated. In many cases, the offender is not apprehended. When he is, he is often destitute. Further, present penal methods do not offer the offender an ability to make restitution because he cannot earn a gainful living.

Along with the worker compensation concept, other steps have been taken in the past 30 years or more which manifest society's abandonment of its laissez-faire attitude when facing matters of collective community need: social security and medicare, aid for dependent children, assistance for the handicapped, the aged, and the blind, notions of nonfault insurance and a national health insurance, all reflect a recognition of collective responsibility. Fulfilling this responsibility.

sibility with regard to victims of crime is no easy task.

What you and your committee, Mr. Chairman, are attempting to do is to face up to this problem. If adopted, at the Federal level, however, it would, by no means, represent the first such step taken in modern times. Indeed, within the last 10 years, New Zealand, England, particularly provinces in Canada and Australia have all enacted governmental programs of compensation for innocent victims of violent crimes. In addition, the States of California, Hawaii, Nevada, Maryland, Massachusetts, New York, and most recently New Jersey, all have enacted some type of compensation program.

I am not wedded to any particular proposition, but I do believe

that the need is great and the time for action is now.

And I would say, on one final note, Mr. Chairman, before this Congress adjourns in 1972, it is my hope that the legislative process would have been completed and that there will be an established principle, on the Federal level, that violent crime is a three-party affair which includes the victim, the criminal and the State.

In the last 100 years, the criminal and the State have dominated the area of crime and punishment to the injurious exclusion of the victim. To revive at this time the proposition that citizens are entitled to protection and failing such protection that citizens are entitled to at least be compensated for losses they suffered from violent national crime, can only serve to strengthen the social fiber of our Nation.

Thank you very much, Mr. Chairman.

Senator McClellan. Well, thank you, Senator Mansfield. That is a most excellent statement, and we are very glad to have your coopera-

tion and support with regard to this legislation.

Incidentally, I think I should state for the record that Senator Mansfield sponsored S. 750, which served as the basis for title 1 of the bill under consideration, and it is through the cooperation and the ideas of a number of Senators, including Senator Mansfield, that we have been able to develop this particular bill. We are very glad to have you here this morning, Senator.

May I note also that we now have 40 cosponsors of this measure in the Senate; so, I feel, Mr. Leader, if we can get the bill processed in committee and get it to the floor of the Senate I am confident we can get it enacted at this session, and that is the purpose of this hearing,

to expedite it.

Senator Mansfield. Well, Mr. Chairman, you get that bill out, that omnibus bill, and I can assure you that it will receive the most expeditious consideration.

Senator McClellan. Thank you, Mr. Leader.

Senator Thurmond, do you have any statement you would like to make?

Senator Thurmond. Thank you, Mr. Chairman.

I wish to take this opportunity to congratulate the distinguished chairman of this subcommittee for his outstanding leadership for this particular piece of legislation. In my judgment, this is one of the most important pieces of legislation that will come before the

Congress at this session.

I came to the Senate in December 1954, and I have had the pleasure of working with the able and distinguished Senator from Arkansas since that time, and, although he is in a different party from me now, it is my pleasure to say that there is no Member of the Senate whom I hold in higher esteem than the distinguished Senator from Arkansas. If I were a voting citizen in the State of Arkansas, I would vote for John L. McClellan.

I am convinced that our country would be better off today if we had

more people like Senator McClellan in the Senate.

With regard to this particular legislation, it is my judgment it will be of great benefit, not only to the public safety officers of this country

but to the public in general.

Without law enforcement, we have no civilized society. People are unsafe on the streets, in their homes, in their automobiles, anywhere they go. And I think this legislation will help a great deal to remedy this situation.

There is no category of public employee, in my judgment, who deserves more consideration than our public safety officers, these men who are on duty 24 hours a day so to speak, our policemen, our sheriffs, our deputies, our highway patrol, and others who help to enforce and preserve the law and protect society, and those like our firemen, who risk their lives frequently and jeopardize themselves in trying to save

lives and protect property. It is altogether fitting and proper that we recognize these dedicated people by giving them a measure of protection.

I am very pleased that my amendment providing for a payment of \$50,000 to dependents of public safety officers who are killed is em-

braced within this bill.

I am also very pleased that this bill provides that this amount will not be subject to taxation, as a big bite of it could be taken out, from

the families of these people who may be killed.

In closing, I just want to say that it is my pleasure to support this legislation. There may be some refinements, amendments that might be made to the bill. There probably will be, but, as a whole, I think it is a very fine piece of legislation, and, again, I congratulate the able and distinguished Senator from Arkansas for his leadership in this matter.

Senator McClellan. Thank you very much, Senator Thurmond.

Senator Boggs, we welcome you this morning.

Do you wish to make a brief statement? Senator Boggs. Thank you, Mr. Chairman.

STATEMENT OF HON. J. CALEB BOGGS, U.S. SENATOR FROM THE STATE OF DELAWARE

Senator Boggs. It is certainly a great pleasure for me to join you and the other members of the committee this morning and to associate myself with the statements made in support of this legislation. I appreciate your very kind invitation to sit in on these hearings. Although I am not a member of the committee, I have a great interest in the Victims of Crime Compensation Act of 1972 which you have introduced, and I am happy to cosponsor this bill along with you and other Members of the Senate.

I am naturally anxious and want to do all I can toward its enactment, and I hope it will be enacted and, hopefully, as has been pointed

out, during this session of Congress.

As I have said in my remarks on the Senate floor when S. 2994 was introduced, I believe this legislation contains a number of outstanding features which deserve proper hearing and favorable action, and I certainly look forward to the hearings which the committee will have starting today.

Mr. Chairman, I have a further statement in regard to provisions of the legislation, for which I ask permission to make a part of the

record at this point.

Senator McClellan. Without objection, the prepared statement of the Senator regarding the bill will be placed in the record at the appropriate place in the hearings today.

(The prepared statement submitted by Senator Boggs reads in full

as follows:)

STATEMENT OF SENATOR J. CALEB BOGGS BEFORE SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURES

Mr. Chairman, I wholeheartedly endorse the provisions of this bill dealing with compensation for needy victims of violent crime, group life insurance benefits for

policemen, and civil remedies for victims of racketeering activity, all of which are designed to ease the financial burden of the helpless victims of crime. They are fair and effective means of fulfilling our obligation to the victims of crime who have all too often been overlooked in our war on crime itself.

My particular interest in this legislation, however, stems from Title III, death and disability benefits for public safety officers, the substance of which I intro-

duced as separate legislation last year, S. 2748.

Police officers, corrections personnel and firefighters are often the innocent victims of crime no less than the private citizen who is injured or slain. The fact is that public safety officers are much more likely to fall victim to violent crimes because of the hazardous nature of their duties. This is increasingly true as the incidence of violent crime continues to rise.

In my own State of Delaware two State Troopers have been killed in the performance of their duties already this year. And in what seems to be a new trend in violent crime, firefighters and corrections officers have become the latest targets of those who strike out at the nearest available symbols of a lawful society.

S. 2994 would provide a death benefit of \$50,000 to the survivors' of any police officer, corrections officer or firefighter certified by the governor of his state to have died in the performance of his duties. In addition, it would provide a payment of \$25,000 for the loss of a limb or the loss of sight in one eye and a payment

of \$50,000 for a loss of two limbs or loss of sight in both eyes.

In many states, it is true, death and disability benefits are set at an adequate level. But this is not true in all states, many of which do not offer any death benefit beyond a survivors' pension based on a percentage of the officers' income. Given the increasingly high risk involved in these occupations and the need to continue to attract responsible family men and women into them, I strongly believe we should provide this type of minimum death and disability benefit for any public safety director killed or disabled in the line of duty.

The distinguished Chairman of this Subcommittee has advocated benefits of this nature for some time, and he has spoken eloquently as to its need. There is little more than I can add except to express my appreciation to him for his efforts

on behalf of this most important legislation.

Thank you, Mr. Chairman.

Senator Boggs. Thank you.

Senator McClellan. We are also glad to welcome Senator Hansen. Senator Hansen, we will be glad to have a statement from you for the record, before we proceed with the scheduled witnesses this morning.

STATEMENT OF HON. CLIFFORD P. HANSEN, U.S. SENATOR FROM THE STATE OF WYOMING

Senator Hansen. Thank you very much, Mr. Chairman.

First of all, let me observe that I consider it a real privilege to come here today to indicate my strong support for the legislation that has been sponsored by the distinguished Senator from Arkansas, Mr. Mc-Clellan, and cosponsored by nearly one-half of the Members of the U.S. Senate.

For a long time I have been one of the growing number of people deeply disturbed and concerned about the rising incidence of crime in the United States. I am concerned, along with many other people everywhere, not because crime has hit my State of Wyoming more severely than it has others but simply because we cannot, any of us, afford to be oblivious to what is taking place in this country. I think at times the courts have been misguided in their determination to see that every constitutional right of the accused is protected and to give little or no attention to the victims of crime.

I speak of three victims of crime: No. 1, the direct victim, the person who is mugged, who is assaulted, who is robbed, raped, or murdered. That is one victim. Often the direct victim is the peace officer who is struck down in the line of duty trying to protect the property of persons, trying to protect persons themselves and trying to maintain order in the United States. And, unfortunately, a very great number of peace officers have been slain or victimized in one way or another by criminals in the United States. Secondly, I speak of a class of victims of crime who serve in ancillary roles, people such as firefighters, who, in trying to protect property and trying to protect lives, oftentimes have been assaulted and at times, in many instances, have been killed by criminals who really had no reason at all to lay a hand on a firefighter. But, the facts are that firefighters have lost their lives in the line of duty. A great number have been seriously hurt and crippled for life. And, then, lastly, of course, we think of members of families of the victims who have been killed and murdered.

Senator McClellan's bill, which I cosponsor, would provide some assistance to those left remaining after the killing hand of the criminal has silenced and killed a father or a mother. The children could be cared for. This bill provides for a \$50,000 payment to the victims of crime and to peace officers whose lives have been taken in the line of duty. I know of no one better able to draft this kind of legislation than the senior Senator from Arkansas. He has had great experience as chairman of this committee; he has had even wider experience in holding hearings on crime throughout the United States. He is perhaps the best known single crimefighter in this country at the legislative level, because of his expertise and because of his long judicial experience. He has been trained to make the very best case for the people, and that is precisely what Senator McClellan now makes for all of us.

I am reassured by the words of our Majority Leader, the Honorable Mike Mansfield of Montana, that, as quickly as this bill comes before the Senate, he assured the chairman of this subcommittee, it would be given expeditious treatment. I know that is true. I know that when our distinguished leader, Senator Mansfield, gives his word you can count on it, and I can assure him, though I know I need not, that 99.9 percent of all of the people in the United States are going to applaud his action in expediting action on a bill which is so clearly and undeniably in the public interest.

I am proud and pleased and privileged to be asked to be a cosponsor of this legislation. It is very definitely in the interest of all of the people of the United States. I urge early and favorable action on the bill by the committee.

Thank you very much, Mr. Chairman.

Senator McClellan. Thank you, Senator Hansen.

The Chair has received statements from certain Senators that they

ask be inserted in the record.

The first one I have is from Senator Kennedy, who is a member of this subcommittee but who, today, is absent by reason of the fact that he is in Denver, I believe, on official business—in fact, on business for the Judiciary Committee. Senator Kennedy has submitted a brief statement which he would like to have inserted in the record, and, without objection, it will be so ordered.

(The prepared statement submitted on behalf of Senator Kennedy

follows:)

Mr. Chairman, we have both been working for five years now to provide adequate financial protection for America's public safety officers. They provide us all with indispensable protection, often at considerable risk to themselves and on salaries far lower than they deserve. Thus while they are unusually subject to death or injury in the line of duty, at the same time their incomes often mean they cannot make adequate provision for their families should they be killed or seriously hurt.

So I am very gratified that it seems we may finally be successful. Your leadership, Mr. Chairman, has been indispensable throughout this effort. In 1970 we came close to success, when the full Judiciary Committee approved a law enforcement officers' group life insurance program and you helped bring it to Senate passage as part of the Senate version of the 1970 omnibus crime act amendments.

This year we look forward to this subcommittee's expansion of the insurance proposal to cover public safety officers beyond police, to adding a separate program for civilian victims of crime, and to further improvements. I am confident that we can all reach final agreement on the exact forms necessary to meet the

clear and pressing needs.

Both of our offices have received many letters on the public safety officers group life insurance section of the proposed Victims of Crime legislation. These letters strongly emphasize the need for a nationally available program of low cost life insurance for our policemen, firemen, prison guards, and court officers. In many places, coverage is pitifully low; in others, no group life insurance is provided; in others, rates or conditions are reportedly less favorable because of the hazards the public safety officers' work. I am submitting for inclusion in the record relevant portions of several of these letters. What we need is a program which will preserve the rights of officers presently in favorable plans while making available to all a nationwide program of basic and adequate coverage. This is the intent of the proposals I have submitted, and I hope very much that such a program can be enacted in this Congress.

Senator McClellan. And I also have a statement here from Senator Alan Bible who states in his cover letter:

Dear John: Because of the commitment I have in my state, I will be unable to be present to testify before your hearings on Monday morning, March 27, on my amendment to your proposed "Victims of Crime Act of 1972," S. 2994.

Then, he requests that the statement he submits be inserted in the record.

And, without objection, that will be done—together with the exhibits he submits.

(A letter and the prepared statement of Senator Bible with attachments follows:)

U.S. SENATE,
SELECT COMMITTEE ON SMALL BUSINESS,
Washington, D.C., March 23, 1972.

Hon. John L. McClellan,

Chairman, Subcommittee on Criminal Laws and Procedures, Committee on the Judiciary, U.S. Senate, Washington, D.C.

Dear John: Because of a commitment I have in my State, I will be unable to be present to testify before your hearings on Monday morning. March 27, on my amendment to your proposed "Victims of Crime Act of 1972," S. 2994. I regret this because I would appreciate the opportunity to develop before you my amendment to add Title IV to your bill which would thereby provide relief for transport carriers, shippers and businessmen who are victimized by the criminal redistribution system in the disposal of goods stolen while moving in interstate commerce.

Your interest in my amendment and its goal of helping our 51/3 million small businessmen shippers while providing potential relief for the nation's truck,

rail, air and ship operators harassed by increased cargo thievery is deeply appreciated. May I submit the attached statement and supporting data for inclusion into your hearing record and your Subcommittee's consideration.

Please accept my personal good wishes.

Cordially,

ALAN BIBLE, Chairman.

STATEMENT OF SENATOR ALAN BIBLE, DEMOCRAT, NEVADA, CHAIRMAN, SENATE SMALL BUSINESS COMMITTEE

Mr. Chairman, and members of this distinguished Subcommittee, I am pleased to testify today in support of an amendment to S. 2994, the "Victims of Crime Act of 1972." I introduced this amendment on March 3, 1972, with the avowed purpose of taking the profit out of cargo thievery and making those individuals who steal, receive or market stolen property civilly liable in damages for their acts. I believe it will provide a major step to curb the biggest billion dollar national racket today—the theft, pilferage and hijacking of truck, air, rail and maritime shipments.

This amendment would strike at the middleman "fences" where it would hurt

them most, their pocketbooks.

This amendment would enable persons in legal possession of goods to sue for treble damages persons responsible for stealing, buying or reselling goods moving in interstate commerce.

This amendment would provide that if goods are sold at less than fair market value, it is prima facie evidence that a person is trafficking in stolen goods.

This amendment would permit the Attorney General of the United States to enter a private civil damage suit on a class action basis for all citizens of the United States.

This amendment would grant the Federal district courts the power to issue injunctive orders to force persons engaged in the sale of stolen goods to divest themselves of business fronts or efforts used in the marketing of these stolen goods.

This amendment has as its basis S. 2426, which I introduced on August 14,

1971, a bill to provide civil damages for cargo theft losses.

Mr. Chairman, since the introduction of S. 2426, the Subcommittee on Criminal Laws and Procedures, under the able leadership of the distinguished senior Senator from Arkansas (Mr. McClellan) has held hearings on the bill and a series of related items. I am pleased to note that these hearings have produced impressive support for the basic concept of S. 2426. It has been endorsed by the Department of Justice, the Transportation Cargo Security Council, the American Trucking Associations, the Association of American Railroads, and the American Institute of Marine Underwriters.

Technically, my amendment to S. 2994 would integrate the basic concepts of S. 2426 into Title IV of S. 2994. As formulated in the amendment, the provision adopts the various venue and other procedural aspects of treble damage suits

in the antitrust area to civil suits for cartage theft.

The fact that hearings are being held on this proposal so soon after its introduction is a tribute to the Subcommittee's appreciation of the importance and urgency of the bill.

Mr. Chairman, I would like to give you a brief background on the importance of reaching the criminal receiver of stolen goods, or as he is more commonly

known, the fence.

Law enforcement officials plus shipper, carrier, and insurance executives believe most of this massive cargo theft finds its way back into legitimate commerce as a result of the operations of criminal, middlemen fences. Today, legitimate merchants, salvage companies, discount stores, as well as the more shady dealers operating behind the scenes are believed to be the link supporting widespread fence operations. It is believed that many of these merchants are engaged in selling goods which were originally stolen from interstate and foreign commerce shipments. It is charged that these merchants buy goods from middlemen fences who in turn buy directly or control the operations of thieves preying on cargo shipments from all modes of transportation.

Most legislative efforts have been geared toward combatting the crime of theft itself, but very little is being done to stop the equally important aspect of the illegal distribution of illegal goods. My amendment to S. 2994 is a vehicle which would go a long way in rectifying the inequitable legislative approach to the

prevention of theft. It is aimed at not the thief, but the criminal profiteer who is not recognized by society as a thief, but more as a shady businessman. It is directed at the quasi-legal business functions of crime, without which there would be no theft. It will help the unaware buyers who become unwitting cogs in the criminal marketing chain.

This amendment is but the first phase in our efforts to halt the fencing of stolen goods. For the first time, the Select Committee on Small Business, of which I have the honor of being Chairman, will investigate this long-neglected, but vital element of crime. Never before has Congress conducted a searching examination of the operations of the silent hidden middlemen who are directly responsible for

supporting all facets of property crime.

The staff of the Committee has been preparing a report on fence operations and I am appalled at the lack of information available from all sources. Preliminary investigations by the Committee staff have indicated that there is very little research and published material on: who receives stolen goods, how stolen goods get into the market place and where the key geographic purchasing, storage, transportation and selling areas are. I feel very strongly that in addition to my amendment to S. 2994, we will be able to develop new legislative solutions aimed at this form of criminal racketeering which is the main support of virtually all property crime.

How significant is the fencing operation? Does it warrant special legislation

to destroy it?

Solderman and O'Connell in *Modern Criminal Investigation*, say: "It has been truthfully said time and again that if there were no receivers of stolen goods there would be very little crime against property and against persons who are attacked and robbed of property. Criminal receivers are responsible for most of the dishonest and unethical practices in business, for youths committing crime, and for professional criminals continuing in crime."

Frederick J. Ludwig, chief assistant district attorney in Queens, New York City, put it this way: "The fence has always been at the center of thievish

behavior."

And Morton R. Sarett, President of the Jewelry Industry Council, observed: "A jewel thief has to have a fence—unless he has an enormous number

of girl friends to give things to."

In spite of the relative lack of information on fencing operations, I think we can make some safe assumptions. First, fences play a vital role in the successful completion of a crime involving a major theft. Without the fence the theft is a meaningless act; Second, stolen goods eventually reach a leigtimate market place. The magnitude of theft is so great that the only reasonable outlet must be of legitimate consumers; and Third, the illegal distribution system from the thief to the market place must adversely affect legitimate business enterprises such as storage companies, transporters, wholesalers, lending institutions and others who are normally involved in a legal distribution system.

My amendment attacks more than just a follow-on crime to a theft; it attacks a criminal process that harms our whole marketing system and eco-

nomic structure.

Eugene T. Rossides, Assistant Secretary for Enforcement and Operations, U.S. Department of the Treasury, in discussing theft and pilferage of international cargo at a Joint Conference on Cargo Security Crises, said: "The gravity of the problem is well known to all of you. The actual dollar loss is huge. In addition to the dollar loss, however, the economy is affected in other ways by such cargo losses—manufacturing schedules may be delayed; employees of manufacturers may be laid off due to lack of raw materials; seasonal markets may be lost; insurance premiums may be increased; stolen merchandise may be put into the stream of commerce by the underworld in competition with legitimate business, oftentimes in direct competition with the importers of the property which has been stolen; duty and internal revenue taxes are not collected on merchandise which is not received by the consignees; and lower income taxes are paid by importers who(1) fail to receive stolen merchandise which they would otherwise sell at a profit, and (2) claim a loss on their income tax return for such theft or pilferage."

This malignant growth on our economy, which I believe could be arrested by the provisions of my amendment to S. 2994, is ironically the most publicly "accepted" of all crimes, when it may be actually more damaging to the general public welfare than the more infamous and better known felonies. It is necessary that we expose the whole fencing operation, that we use our powers of legislation to wipe out this dangerous threat, that we stop this

multiple plundering of the American public.

Mr. Chairman, let me quote some statistics from a recnet series of articles on theft printed in *The Washington Star*: "Each year there are \$3-billion employee thefts; each year there are \$250-million auto thefts; each year there are \$1.5-billion cargo thefts; and each day there are \$8-million shoplifting thefts."

This is primarily stolen property, as opposed to cash. This property must go somewhere . . . it must be moved . . . it must be sold . . . it must go through an illegal marketing distribution system—in other words it must be fenced. Let's get

the fence.

Mr. Chairman, I respectfully urge that my amendment to S. 2994 be favorably

reported as a part of your bill.

May I submit for inclusion with my statement as supporting material a sectionby-section analysis of my amendment and a preliminary staff report of the Bureau of Domestic Commerce, Department of Commerce, entitled "The Economic Impact of Crimes Against Business," attesting to the fact that small businesses suffer 35 times more than big business by criminal activity, the basis for our Committee's continuing effort in this area of activity.

Analysis of Proposed Amendment to S. 2994, the Victims of Crime Act of 1972 and Changes in, 18 U.S.C. 659

This amendment would amend Title IV of S. 2994, which provides civil remedies for victims of racketeering activity, by extending its provisions to victims of theft. A new section (403) is added to Title 4, which amends and rewrites Section 659 of Title 18 of the U.S. Code, entitled "Interstate or foreign shipments by carrier: State prosecutions." The proposed new section 659 consists of twenty paragraphs designated "a" through "t." The existing section 659 consists of 9 paragraphs, not number or lettered.

An analysis of the proposed new section 659 by paragraph follows. Significant

change from the present section 659 are pointed out.

I

PARAGRAPH "A"

Paragraph "a" restates and consolidates Paragraphs 1 and 2 of Section 659 to provide essentially that it shall be unlawful for any person to embezzle, steal, or unlawfully take, carry away, or conceal, or by fraud or deception obtain, with intent to convert to his own use, any money, baggage, goods, chattels, or other property which is moving as, or which is a part of, or which constitute an interstate or foreign shipment from any pipeline system, railroad car, wagon, motortruck, or other vehicle, or from any tank or storage facility, station, station house, platform or depot or from any steamboat, vessel, or wharf, or from any aircraft, air terminal, airport, aircraft terminal, or air navigation facility, or to buy, receive or have in his possession any such money, luggage, goods, chattels, or other property, knowing, or having reason to know, that it has been embezzled, stolen or otherwise unlawfully taken, carried away, concealed, or obtained.

New to this section are the words "money," "baggage," "or other property" and the phrase at the end of the paragraph "knowing, or having reason to know, that it has been embezzled, stolen or otherwise unlawfully taken, carried away,

concealed, or obtained."

PARAGRAPH "B"

This paragraph restates paragraph 3 of section 659 to provide that it shall be unlawful for any person to embezzle, steal, or unlawfully take, carry away, or conceal, or by fraud or deception obtain with intent to convert to his own use, any money, baggage, goods, chattels, or other property, which shall have come into the possession of any common carrier for transportation in interstate or foreign commerce, or to break into, embezzle, steal, unlawfully take, carry away, or conceal, or by fraud or deception obtain with intent to convert to his own

use any of the contents of such baggage, goods, chattels, or other property, or to buy, receive, or have in his possession any such money, baggage, goods, chattels or other property, knowing, or having reason to know that it has been embezzled or stolen or otherwise unlawfully taken, carried away, concealed or obtained. New to this section are the words and phrases "money," "goods, chattels, or

other property," and "or having reason to know."

PARAGRAPH "C"

This is a restatement of paragraph 4 of section 659 which provides that it shall be unlawful for any person to embezzle, steal, or unlawfully take, carry away, conceal, or by fraud or deception obtain, with intent to convert to his own use, any money, baggage, goods, chattels, or other property from any railroad car, bus, vehicle, steamboat, vessel, or aircraft operated by any common carrier moving in interstate or foreign commerce, or from any passenger thereon, or to buy, receive, or have in his possession any such money, baggage, goods, chattels, or other property, knowing, or having reason to know, that it has been embezzled, stolen, or otherwise unlawfully taken, carried away, concealed or obtained.

New words and phrases are "other property," "having reason to know," "or

otherwise unlawfully taken, carried away, concealed or obtained."

PARAGRAPH "D"

This is a restatement of paragraph 5 of section 659, which carries the penalty provisions. Language has been perfected; the penalties are the same.

TT

Paragraphs "e" though "p" are new to section 659. They provide:

PARAGRAPH "E"

The district courts of the United States are given jurisdiction, without regard to the amount in controversy, to prevent and restrain violations of this section by issuing appropriate orders, including, but not limited to: ordering any person to divest himself of any interest, direct or indirect, in any enterprise; imposing reasonable restrictions on the future activities or investments of any person, including, but not limited to, prohibiting any person from engaging in the same type of endeavor as the enterprise engaged in, the activities of which affect interstate or foreign commerce; or ordering dissolution or reorganization of any enterpirse, making due provision for the rights of innocent persons.

PARAGRAPH "F"

The Attorney General may institute proceedings under subsection (e) of this section. In any proceedings brought by the United States, the court shall proceed as soon as practicable to the hearing and determination thereof. Pending final determination thereof, the court may at any time enter such restraining orders or prohibitions, or take such other actions, including the acceptance of satisfactory performance bonds, as it shall deem proper.

PARAGRAPH "G"

Any person may institute proceedings under subsection (e) of this section. Relief shall be granted in conformity with the principles which govern the granting of injunctive relief from threatened loss or damage in other cases. Upon the execution of proper bond against damages for an injunction improvidently granted and a showing of immediate danger of irreparable loss or damage, a preliminary injunction may be issued in any action before a determination thereof upon its merits.

PARAGRAPH "H"

Whenever the United States is injured in its business or property by reason of any violation of this section, the Attorney General may bring a civil action in a district court of the United States, without regard to the amount in controversy, and shall recover the actual damages sustained by the United States, and the cost of the action.

PARAGRAPH "I"

Any person who is injured in his business or property by reason of any violation of this section may bring a civil action in a district court of the United States, without regard to the amount of controversy, and shall recover threefold the actual damages sustained by him, and the cost of the action, including a reasonable attorney's fee.

PARAGRAPH "J"

Any civil action or proceeding under this section against any person may be instituted in the district court of the United States for any district in which such person resides, is found, has an agent, or transacts his affairs.

PARAGRAPH "K"

In any civil action or proceeding under this section in any district court of the United States in which it is shown that the ends of justice require that any other party residing in any other district be brought before the court, the court may cause such party to be summoned, and process for that purpose may be served in any judicial district of the United States by the marshal thereof.

PARAGRAPH "L"

In any civil or criminal action or proceeding under this section in the district court of the United States for any judicial district, subpenas issued by such court to compel the attendance of witnesses may be served in any other judicial district, except that in any civil action or proceeding no such subpena shall be issued for service upon any individual who resides in another district at a place more than one hundred miles from the place at which such court is held without approval given by a judge of such court upon a showing of good cause.

PARAGRAPH "M"

All other process in any civil or criminal action or proceeding under this section may be served on any person in any judicial district in which such person resides, is found, has an agent, or transacts his affairs.

PARAGRAPH "N"

The Attorney General may, upon timely application, intervene in any civil action or proceeding brought under this section if in his opinion the case is of general public importance. In such action or proceeding, the United States shall be entitled to the same relief as if he had instituted the action or proceeding.

PARAGRAPH "O"

A final judgment or decree rendered in favor of the United States in any subsequent civil proceeding as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto.

PARAGRAPH "P"

Except as hereinafter provided, any civil action or proceeding under this section shall be barred unless it is commenced within five years after the cause of action accrued. Whenever any civil or criminal action or proceeding, other than an action under subsection (h) of this section, is brought or intervened in by the United States to prevent, restrain, or punish any violation of this section, the running of the period of limitations prescribed by this subsection with respect to any cause of action arising under subsection (g) or (i) of this section, which is based in whole or in part on any matter complained of in such action or proceeding by the United States, shall be suspended during the pendency of such action or proceeding by the United States and for two years thereafter.

PARAGRAPH "Q"

This paragraph takes the place of paragraph 6 of section 659. A violation of this section shall be deemed to have been committed not only in

the district where the violation first occurred, but also in any district in which the defendant may have taken or been in possession of the said money, baggage, goods, chattels, or other property "other property" is new under this amendment.

PARAGRAPH "R"

This takes the place of paragraph 7 of section 659.

The carrying or transporting of any such money, baggage, goods, chattels, or other property in interstate of foreign commence, knowing, or having reason to know, it had been embezzled, stolen, or otherwise unlawfully taken, carried away, concealed or obtained, shall consistute a separate violation and subject the violator to criminal penalties and a civil cause of action under this section and the violation shall be deemed to have been committed in any district into which such money, baggage, goods, chattels, or other property, shall have been removed or into which it shall have been brought by such violator.

The words "freight" and "express" now in the law are omitted. New words and phrases are "on other property" "on having reason to know" "on otherwise unlawfully taken, carried away, concealed or obtained," "and a civil cause of action

under this section."

PARAGRAPH "S"

This paragraph takes the place of paragraph 8 of section 659.

Beginning with the third sentence new material is added, i.e., "Proof that a person was found . . . "also, in the first sentence the phrase "in any criminal or

civil action or proceeding."

To establish the interstate of foreign commerce character of any shipment in any criminal or civil action or proceeding under this section the waybill or other shipping document of such shipment shall be prima facie evidence of the place from which and to which such shipment was made. The removal of property from a pipeline system which extends interstate shall be prima facie evidence of the interstate character of the shipment of the property. Proof that a person was found in unexplained possession of any money, baggage, goods, chattels, or other property, recently embezzled, stolen or otherwise unlawfully taken, carried away, concealed, or obtained by fraud or deception in violation of this section, shall be prima facie evidence that such person knew that such property was or that such person had embezzled, stolen, or otherwise unlawfully taken, carried away, concealed, or obtained by fraud or deception such money, baggage, goods chattels, or other property in violation of this section. Proof that a person bought or received for a consideration substantially below its fair market value money, baggage, goods, chattels, or other property embezzled, stolen, or otherwise unlawfully taken, carried away, concealed, or obtained by fraud or deception in violation of this section shall be prima facie evidence that such person probably knew that such property was embezzled, stolen, or otherwise unlawfully taken, carried away, concealed or obtained by fraud or deception in violation of this section.

PARAGRAPH "T"

This paragraph is the same as paragraph 9 of section 659 except for one word. In the first sentence the word "criminal" has been added. A judgment of conviction or an acquittal on the merits under the laws of any State shall be a bar to any criminal prosecution under this section for the same act or acts. Nothing contained in this section shall be construed as indicating an intent on the part of Congress to occupy the field in which provisions of this section operate to the exclusion of State laws on the same subject matter, nor shall any provision of this section be construed as invalidating any provision of State law unless such provision is inconsistent with any of the purposes of this section or any provision thereof.

III

Section (b) of section 403 of the proposed amendment would change the analysis at the beginning of chapter 31 of title 18 of the United States Code, for section 659, to read:

"659. Interstate or foreign baggage, express or freight; State prosecutions; civil remedies for victims of theft."

A UNITED STATES
DEPARTMENT OF
COMMERCE
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Preliminary Staff Report

Economic Impact of Crimes Against Business

U.S.
DEPARTMENT
OF COMMERCE

Bureau of Domestic Commerce

FEBRUARY 1972

SUMMARY

This study was undertaken to determine the economic impact of "ordinary" crimes against business. Ordinary crimes include burglary, robbery, vandalism, shoplifting, employee theft, bad checks and arson. Costs of organized crime and extraordinary crimes—such as airplane hijacking and embezzlement—have not been included.

Numerous studies dealing in whole or in part with ordinary business crimes have been undertaken in the past. These have prompted some recent major Federal anti-crime programs, such as the Omnibus Crime Control Acts of 1968 and 1970. However, all such studies, including this one, are hampered by the lack of data about the number, types and impact of these crimes.

The following findings have been developed from the previous studies, as well as from a variety of newer public and private sources:

Impact on All Businesses

- The figures in this report, although far from complete, add up to a total national cost of ordinary crimes against business of \$16 billion per annum.
- The increase in crimes against property is alarming.
 FBI statistics, which cover crimes against both private

and business property, show an increase within the combined categories of robbery, burglary and larceny of 13 percent between 1969 and 1970, and 182 percent between 1960 and 1970.

- -- Ordinary crime against business is most severe in, but by no means confined to, central cities. Shop-lifting occurs in approximately the same proportions in the central city, suburbs and rural areas.
- In terms of relative size, small business suffers a greater burden from crime than does big business.

Impact on Business Sectors

estimated \$4.8 billion, or slightly more than onefourth of the costs incurred by all businesses. This
is disproportionate relative to the contribution of
retail trade to the GNP, which was about 10 percent
in 1970. Inventory shortages resulting from a combination of customer and employee theft make up a
major portion of losses suffered by retail establishments.

- For the manufacturing sector, there are few reliable figures available. The volume of theft losses varies with the characteristics of the products, especially their value and their portability. A best estimate from available data is that the crime loss is \$1.8 billion per annum.
- -- The wholesaling sector suffers an estimated loss of 0.5 percent of total annual sales volume. This amounted to \$1.4 billion in 1971.
- -- Service enterprises, such as hotels, educational institutions and hospitals, are conservatively estimated to lose \$2 billion annually.
- -- Investment banks sustained a loss of about \$500 million in securities in the first six months of 1971. Banks lost about \$10 million due to robberies in 1970.
- -- Credit card losses due to fraud are conservatively estimated to have been \$140 million in 1970. A U.S. Post Office source places this figure as high as \$400 million.
- -- Transportation cargo theft is estimated at \$1.5 billion per annum.
- -- Arson costs are estimated at \$200 million during 1970.

Costs of Private Prevention

-- Costs of private crime prevention efforts amounted to over \$3.3 billion in 1969. This represents an increase of 150 percent between 1960 and 1969. It compares with a 90 percent increase for public law enforcement expenditures in the same period.

Conclusion

The magnitude and rate of increase in the costs to business of ordinary crime are clearly evident, even though the precise figures are hard to establish. What is known points to the need for a major effort to reduce these business costs, which in the end must be borne by the customer. Business and government need to make a substantial effort to increase the public's awareness of the problem and its burden on the public, and to assist in positive deterrent and protective actions.

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INTRODUCTION

In November 1971, the Bureau of Domestic Commerce completed a preliminary study of petty theft against retail stores. This study reported that the total national impact of "inventory shrinkage," which includes shoplifting, employee theft and accounting errors, is conservatively estimated to be about \$4.6 billion annually.

These preliminary figures suggested that the magnitude of the problem warranted further investigation. This study and report were then undertaken to determine the economic impact of all "ordinary" crimes involving business property. Thus, in addition to shoplifting and employee theft, it considers the costs of crimes such as burglary, robbery, vandalism, the passing of bad checks and arson.

Organized crime and extraordinary crimes such as airplane hijacking and embezzlement have been excluded wherever figures permitted a breakout. These problems were considered different in character, requiring different solutions. Costs of public prosecuting and law enforcement services were also excluded, since they are borne by the general public and cannot be related directly to business expenses.

A review was conducted of all recent major documents and articles related to crimes against business. This includes commission and

agency reports, as well as books and magazine and newspaper articles. In addition, many industry associations supplied information from their membership. A bibliography and a list of contacts are contained in the back of the report.

The most serious difficulty associated with the investigation is the sparseness and sporadic nature of the data available. Figures are seldom based on comparable definitions or time periods. This drawback was highlighted in the 1968 report of the President's Commission on Law Enforcement and Administration of Justice $\frac{1}{}$ (hereafter referred to as the President's Commission):

"The only comprehensive study of the cost of crime ever undertaken in this country was made by the Wickersham Commission (in 1931). It set forth in detail a conceptual framework for discussing the economic cost of crime and recommended that further studies be made, ... However, except in the area of statistics concerning the costs of the criminal justice system, ... the lack of knowledge about which the Wickersham Commission complained 30 years ago is almost as great today."

Although many of the recommendations of this Commission have since been adopted, including the expansion of data-gathering activities, there is still no comprehensive source for information about crimes against business property. The most thorough single source of data

available to date is a Small Business Administration report entitled, Crime Against Small Business.

The present report attempts to pull together estimates available from numerous sources. In almost every case, the estimates are conservatively stated, inasmuch as they do not attempt to include unreported crimes, which are considered to be high.

While the information base is limited, it can be concluded that more numbers are not needed to demonstrate that the problem of crime against business is costly, severe and getting worse. Therefore, while more data are needed to better assess the nature and amounts of specific types of losses, it is desirable to move immediately toward developing concrete solutions. This report attempts to suggest some actions that might now be taken.

FINDINGS

National Costs and Trends

Although the estimates in this report are far from complete, they suggest that the annual national cost of crime to American business is at least as follows:

	1971
Estimates in This Study	Billions
Retailing	\$ 4.8
Manufacturing	1.8
Wholesaling	1.4
Services	2.7
Transportation	1.5
Arson	0.2
Preventive	3.3
Total	\$15.7

This range of costs is largely substantiated by other studies after adjusting them for differing definitions. For example, <u>U.S.</u>

News and World Report ^{2/} conducted a comprehensive survey of crime costs in 1970 and arrived at an annual estimate of \$10.6 billion. An estimate made by the Small Business Administration ^{3/} for 1967 is only \$3 billion but defines the types of crimes under consideration relatively narrowly. The President's Commission's estimate of \$5.8 billion is somewhat more inclusive but is for the year 1965; the increasing rates of crime reported herein would indicate that this estimate was far exceeded in 1971.

In 1970, the number of criminal offenses of robbery, burglary and larceny (over \$50) accounted for 77 percent of the FBI index 4/* of all crimes. Between 1969 and 1970, the number of burglary crimes increased by 11 percent, robbery by 16 percent and larceny by 15 percent. The long-term trend in these figures is even more startling. Between 1960 and 1970, the number of burglary crimes increased by 142 percent, robbery by 224 percent and larceny by 245 percent. Within these categories, non-residential daytime burglary rose 155 percent; robberies of banks rose 409 percent; robberies of retail food chain stores rose 389 percent; robberies of gas stations rose 230 percent; and robberies of all other commercial establishments rose 144 percent. The number of shoplifting offenses rose 221 percent in the decade.

These are startling figures, and the following sections examine more closely their significance for various commercial sectors.

Geographic Distribution of Crime

Studies show that crimes against business are not solely an urban problem. They are also prevalent in suburban and rural areas. The

^{*} While the FBI does not separate crimes against residential versus business properties, the overall growth trends are roughly appropriate for commercial property crimes.

SBA report found that shoplifting occurred in suburbs and rural areas with about the same relative frequency as in central cities.

This was also true for the incidence of bad checks.

This pattern was noted in a recent Wall Street Journal article suitably titled, "Shoplifting: Long a Plague of Urban Stores, Now an Increasing Menace in the Suburbs." ⁵/
The article indicated that about 50 percent of the merchandise unaccounted for in sales of stores in suburban communities had been pilfered.

It is not true, however, that all forms of crime occur with the same frequency regardless of location. The SBA study shows that businesses in central cities, particularly in the poorer sections, have the highest rate of burglaries, robberies and vandalism by a substantial margin. The table on the following page shows that crime can affect businesses regardless of location, although the lesser populated areas suffer less than urban areas.

			6/
Category	of	Crime	

		Shop-				Van-
		lifting	Checks	Burglary	Robbery	dalism
Percent of All Businesses Who Reported At Least One Crime Incident;		%	%	%	%	%
		15	37	14	2	N.A.
	ent of Those Reporting ast One Incident by ion:					
	Central City	14	41	18	3	N.A.
	Suburbs	15	31	16	2	18
	Rural	15	36	9	1	N.A.
	(N.A Not Available)					

Relationship of Crime to Size of Firm

The SBA developed an index of the impact of losses from ordinary crimes measured in relation to receipts. The table below shows the impact by size of firm. The average for all businesses is set at 100.

Business Receipts	Index
All Businesses	100
Over \$5,000,000 \$5,000,000 to \$1,000,000 Under \$1,000,000 to \$100,000 Under \$100,000	9 127 205 323

Thus, small business suffers an impact that is 3.2 times the average, and 35 times that of businesses with receipts over \$5 million. These small firms are less able to afford the overhead required for extensive protective measures to absorb these losses.

Types and Costs of Crime Against Retail Business

The SBA survey indicates that in 1967 retail trade sustained an estimated loss of \$1.4 billion annually due to ordinary crimes. Discussions with industry and insurance specialists indicate that this estimate is low. For 1970, this loss is estimated at approximately \$4.8 billion (see table on next page).

The principal types of ordinary crime considered in this survey of the retail industry were shoplifting, burglary, vandalism, bad checks, employee theft and robbery. The table below shows the distribution of losses within these six categories.

Total	100%
Shoplifting	28
Burglary	23
Vandalism	20
Bad Checks	13
Employee Theft	13
Robbery	3

While shoplifting appears to be the most serious problem for retail establishments, most observers believe that because of the

ESTIMATED RETAIL LOSSES DUE TO ORDINARY BUSINESS CRIME

(3) + (4) = (5) Total estimated loss due to ordinary business crime per year					\$4,785
Estimated loss Total estimated due to robbery, loss due to burglary, vandalism ordinary and bad checks \(\frac{3}{2}\) business crime (millions)					\$77\$
<pre>(2) x (1) = (3) Calculated inventory loss per year (millions)</pre>	\$2,430	860	470	250	\$4,010
(2) Estimated percent of inventory loss 2/	3.0%	1.0	3,5	1,2	2 . 2%
(1) Annual Sales (billions) 1/	\$ 81.1	86.1	13.4	21.2	\$201.8
Type of Business	Merchandise and Apparel	Grocery Stores	Drug and Propietary Stores	Other (Home furnishings, furniture, appliances, radio-TV, and hardware), $\frac{4}{4}$	TOTAL

1/ November, 1971 Survey of Current Business Retail Sales-1970, 2/ Composite estimate based on discussion with industry and security experts. 3/ Crime Against Small Business, Small Business Administration, 1969, 4/ Not included due to unavailability of shrinkage figures were automotive, service stations, lumber, and liquor sales which totaled \$138 billion in 1970.

This methodology follows that used by the President's Commission on Law Enforcement and Administration of Justice. See The Challenge of Crime in a Free Society. 1968, Ch. NOTE:

reluctance of businessmen to admit the magnitude of their employee theft problem, that figure is seriously understated. Some believe that employee theft accounts for substantially more loss than shoplifting by customers.

Retail establishments sustain about one-fourth of the total dollar losses to all businesses from these crimes. Compared to the contribution of retail trade to the GNP, about 10.2 percent in 1970, this crime burden is disproportionate relative to other commercial sectors.

Total inventory losses which result almost entirely from shoplifting and employee theft are estimated as high as four to five percent of sales at some stores. This is virtually equal to the normal profit margins in retailing. In 1970, the giant R. H. Macy and Co. singled out inventory theft as a major factor accounting for a downturn in profits. $\frac{9}{}$

Crime Against Other Business Sectors

Manufacturing - The difficulty of obtaining statistics on the cost of ordinary crimes against the manufacturing sector is particularly imposing. The President's Commission concluded that there is no real information available for this sector, and this is still largely true today. The only available estimate of total costs was obtained from the

American Society of Industrial Security which places the costs of crime against the manufacturing sector at \$1.8 billion annually.

Discussions with industry representatives indicate that the seriousness of crime losses may vary according to such factors as:

- 1. The nature of the product its value, size, utility and transportability. Firms making small, high-value consumer products are thought to suffer more substantial losses than manufacturers of large industrial products.
- 2. The types of tools used; for example, automobile manufacturers are relatively automated. However, less automated industries suffer tool and part losses.
- 3. The degree of plant security and employee screening.
 For these reasons, defense industries suffer less
 from employee theft.

Wholesaling - The problem of obtaining estimates of the costs of crimes against the wholesaling sector is complicated for reasons similar to those affecting manufacturing establishments. The impact of thievery varies largely depending on the particular product being handled by the wholesaler. However, wholesalers generally suffer from the same types of crimes incurred by retailers, particularly

employee theft. In fact, security officers in wholesaling businesses indicate that most of their efforts are devoted to developing security measures against their own employees.

It is estimated that the total cost of ordinary crimes against the wholesaling sector runs about 0.5 percent of sales volume. This amounts to \$1.34 billion per year.

<u>Service</u> - Again, there is no satisfactory estimate available for service industries as a whole or for most service trades. However, contacts with industry representatives give some indication of the impact on a few types of service businesses.

Restaurants, hotels and hospitals are estimated to lose more than \$2 billion annually from ordinary crime. This is primarily employee thefts of items such as cutlery, food, liquor, silver, linen and other similar articles.

Laundry and cleaning associations indicate that their most serious problems are vandalism and petty theft, particularly of public coin-operated laundry equipment. The offenses reported to the FBI in 1970 amounted to \$1.1 million, and many more are unreported.

In mid-1971, the Senate Permanent Subcommittee on Investigations reported that \$494 million in securities had been

stolen from brokerage firms and banks in the first six months of the year. This was more than twice the total for all of 1970 (\$227 million). These figures had been compiled by the National Crime Information Center and include thefts of U.S. savings bonds, Treasury bonds and notes and other government securities, bonds, debentures and common and preferred stock. Stocks made up the bulk of the total 1971 sixmonth loss at \$400.5 million.

In addition to these securities thefts, the financial services community reported to the FBI losses of about \$10 million due to bank robberies during 1970. No estimates have been made as to the extent to which these thefts can be attributed to organized crime.

The credit card industry is another part of the service sector which has experienced heavy losses in the past due to theft. Recently, this loss has been cut considerably as a result of a program sponsored jointly by the U.S. Post Office and credit card companies. An estimate of losses for 1970, based on a recent Federal Reserve System study, places credit card losses due to fraud at about \$140 million. The U.S. Post Office indicated that their recent surveys place this figure as high as \$400 million per annum.

<u>Transportation</u> – A study on freight loss and damage, completed for the Office of Policy Review, Department of Transportation in February 1970, stated the following: $\frac{10}{}$

"The economic significance of loss and damage must be sensed through contact with people working in the field of shipping and traffic rather than through analysis of statistical data. Any intelligent perception of the problem would indicate that it is a large problem but its size cannot be readily grasped with the tools at hand. Only two modes of transportation publish any kind of comprehensive statistics. The Interstate Commerce Commission requires certain reports from railroads and from motor carriers. Water transportation statistics are not reported systematically, including the handling of freight across the docks where pilferage and racketeering, and other forms of corruption have attained the proportions of national scandals. In the new and burgeoning air freight field, there is likewise no reporting"

Although industry association sources are considerably more conservative, the Senate Committee on Small Business estimates total cargo theft to run around \$1.5 billion annually and to increase to as much as \$2.6 billion during 1972. Of the current total, \$900 million or 60 percent is due to truck cargo theft, \$250 million to railroad cargo theft, \$210 million to maritime shipping losses due to theft, and \$110 million to air cargo theft.

In addition to cargo theft, airlines suffer from thefts of tickets.

In 1970, over 28,000 tickets were stolen from U.S. travel agencies,
and hundreds more were taken from airline ticket offices. The International Air Transport Association estimated losses from ticket frauds
in 1970 totalled \$6 million. There is no way to determine the extent
to which this theft is a result of organized crime.

Arson - The National Fire Protection Association estimates that losses due to incendiary fires and those of "suspicious origin" amounted to \$206 million in 1970. The largest proportion of these fires was associated with educational and commercial buildings.

Types and Costs of Private Preventive Measures

The most recent and thorough investigation of this area was a study conducted by The Rand Corporation for the Justice Department.

| 11/ | While the report has not yet been officially released by LEAA, some of its findings have been widely published. These show that the costs of private crime prevention in 1969 were over \$3.3 billion. Of this, \$800 million was spent for equipment such as locks, iron grills, deterrent lighting, TV systems and mirrors. The remaining \$2.5 billion went for services, of which \$1.6 billion represented costs of special police and in-house guards; also included was \$620 million for private contract guards, \$123 million for armored car services and \$120 million for central alarm systems.

The Rand study also indicated that while public law enforcement expenditures increased 90 percent between 1960 and 1969, private security expenditures are estimated to have increased 150 percent during that period. In 1969, the private security forces employed 290,000 guards and watchmen (36 percent of all security forces).

Among the many reasons cited for growth of private security efforts are the following:

- -- Increasing business losses due to crime.
- Rising insurance rates and the expansion of categories for which property insurance cannot be obtained.
- -- Insurers requiring the use of private security systems or granting premium discounts when private security measures are taken.

This study also indicated that the growth of personnel in private security has not been accompanied by training programs adequate for the field. In the Rand sample of 275 guards, about two-thirds had received no training before being put to work, and some 60 percent of guards with pistols were given no firearms training at all. The study indicates that over half of the guards surveyed never entered high school and that only 18 percent completed high school. The study concludes that unless better training is provided, a rising number of lawsuits associated with private security acts such as false arrests, bodily injury and property damage can be expected.

FEDERAL PROGRAMS AGAINST CRIME

The concern for the control of crime against society as a whole has stimulated numerous extensive studies in the past, and the recommendations of these studies have led to the development of some major anti-crime legislation.

The Small Business Administration major recommendations included such items as the following:

- -- Improving architectural design to eliminate protruding ledges, wooden doors, inadequate locks, and the like.
- -- Including security requirements in building codes.
- -- Using central station alarms more extensively.
- -- Developing a non-lethal bullet.
- -- Educating the businessman to take routine precautions such as not placing items in clear view, installing night lighting, and avoiding loose door and window fittings.
- -- Introducing new passive devices such as ax-resistant glass.

-- Federal efforts:

- -- follow-up surveys every two or three years, similar to the 1969 survey.
- -- expansion of educational efforts in this area.
- -- monitoring progress of the insurance industry in providing crime insurance.

The President's Commission on Law Enforcement and Administration of Justice primarily focused on police procedures and corrections reform in its recommendations. The recommendations of concern to this report were those urging better police recording and fact-gathering methods. The report also proposed that business associations should contribute to the improvement of the data base.

Several corrective measures have grown out of these recommendations, including perhaps the two most important pieces of anticrime legislation in recent government history. These are: the Omnibus Crime Control and Safe Streets Act of 1968 and the Omnibus Crime Control Act of 1970.

The Law Enforcement Assistance Administration was established by Title I of the Omnibus Act of 1968. The major programs of LEAA

enforcement procedures. However, the Administration also has the directive to improve the collection and dissemination of crime statistics through its National Criminal Justice Information and Statistics Service. The 1972 Federal Budget allocates \$9.7 million of the \$698 million LEAA budget to this service.

The LEAA also has a National Institute of Law Enforcement and Criminal Justice, which develops and demonstrates new and improved approaches, techniques, systems, equipment and devices to strengthen and improve law enforcement. This Institute has been allocated \$21 million of the 1972 budget. It is currently coordinating a program to review existing standards for locks and alarm systems which was recommended in the SBA report.

In September 1971, the Senate Aviation Committee held hearings to determine how the best preventive methods can be developed against airport cargo crime. In the Department of Transportation, the Office of Civil Aviation Security is now operating anti-hijack programs and assisting in the development and installation of airport cargo security devices.

While these are the main preventive and corrective efforts currently conducted by Federal agencies, a continuing concern for the impact of crime on specific types of commercial activities is obviously needed. 20-21

AN ACTIVE ROLE AGAINST CRIME

Although businessmen are spending \$3.3 billion in private prevention efforts, there are indications that these efforts may be too passive. For example, insurance representatives claim that businessmen often take minimal precautions against robbery and burglary once they have obtained insurance. Also, many of the sources used for this study indicate that businessmen generally suffer from a lack of interest in either the extent of the problem or protective measures presently available.

Thus, in a sense, businessmen may be tending to view criminal acts and rising crime rates as "society's" problem. Unlike individuals who take stringent measures to protect themselves from criminal acts out of fear of bodily harm, businessmen tend to think of crime as something over which they have no control and from which they should be protected by others.

However, even the scant figures in this report indicate that crime against the business sector is a matter of pressing concern. Businessmen

should start to view crime just like any other component of business cost. Crime losses are costs. Cutting crime losses should receive the same sort of constant aggressive attention devoted to cutting labor costs, facility costs or any other costs that sap profits. This involves careful review of such things as the sufficiency and quality of present protective efforts and techniques, prosecution practices, and employee selection and training.

Attention of this nature could lead business to:

- Learn of and adopt (if not develop) more professional approaches to property protection. In many cases, present knowledge is not being applied.
- -- Devote more attention to what industry associations are doing to develop awareness of the problem and find new techniques to limit crime losses. This is very important for the "little guy" who bears a disproportionate share of the crime burden but does not have the resources to develop techniques of his own.
- -- Make greater efforts to follow through on prosecuting people apprehended. Laws against theft have little

deterrent effect if they are not enforced. Even limited tactical enforcement might do much to help deter minor offenders.

-- Take an interest in the public service contributions
that can be made toward improvement of prosecuting
and court processing systems.

New programs are clearly needed to:

- Collect more precise data on the extent and types of crimes against business;
- -- Promote an awareness of the problem of ordinary crime in the business community;
- Assist appropriate public and private units actively working for crime prevention; and
- Disseminate information on means of reducing the problem.

Finally, some of the steps which might be considered in pursuing these objectives are:

a survey of businesses to determine more precisely
 the extent of available information and to collect new data,

- a business awareness program, including handbooks, seminars and media programs, which would encourage and improve on self-help efforts,
- -- some form of Federal clearinghouse for relevant data,
- encouragement of trade and industrial associations to develop appropriate accounting and managerial methods for criminal identification and protection procedures.

This report is prepared and distributed to stimulate consideration by business and government as to how the socially-costly impact of business crimes can be significantly reduced.

FOOTNOTES

- 1/ The Challenge of Crime in a Free Society, A Report by the President's Commission on Law Enforcement and Administration of Justice, New York, 1968; Ch. 3.
- 2/ U.S. News and World Report, "Crime Expense," October 26, 1970.
- 3/ Crime Against Small Business, A Report of the Small Business Administration transmitted to the U.S. Senate Select Committee on Small Business, Apr. 3, 1969
- 4/ Crime in the United States, Uniform Crime Reports, FBI, 1970.
- 5/ The Wall Street Journal, December 23, 1971, p. 22.
- 6/ Adapted from SBA report, see footnote 3.
- 7/ Ibid.
- 8/ Ibid.
- 9/ "Shoplifting: The Pinch that Hurts," Business Week, June 27, 1970. Also, "The Manicured Hand in the Till," Journal of Insurance, May-June 1971.
- 10/ As reported in the Hearings before the Senate Committee on Small Business, U.S. Senate, June 1970-71.
- 11/ Private Police in the United States: Findings and Recommendations,
 A Report Prepared for Dept. of Justice, Rand Corp., Nov. 1971.
 See also, Business Week, "The Guard You Hire May Be Dangerous,"
 Dec. 4, 1970, and LEAA News Release, Oct. 20, 1971.
- San Francisco Chronicle, May 6, 1970. Interview with Louis Niggeman, President, The Fireman's Fund.

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- 2. Air Transport Association, December 13, 1971.

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- 1. Convenience Store Journal, "Crime and the Convenience Store" November 1971, pp. 20-26.
- 2. U.S. News & World Report, "Crime Expense" October 26, 1970.
- 3. Nation's Business, "New Weapons to Protect You Against Crime April 1969.
- 4. <u>Journal of Insurance</u>, "The Manicured Hand in the Till" May– June 1971.
- 5. Newsweek, "The Rent-a-Cop Boom" January 10, 1972, p. 43.
- 6. Business Week, "Shoplifting: The Pinch that Hurts" June 27, 1970.
- 7. Business Week, "The Guard You Hire May Be Dangerous" December 4, 1971.

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- 1. New York Times, December 10, 11, 12, 1971. Articles on Mobil Oil Case.
- 2. The Wall Street Journal, December 23, 1971, and December 12, 1971.
- 3. San Francisco Chronicle, May 6, 1970. Interview with Louis Niggeman, President, Fireman's Fund American.

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- Douglas Johnson, Business Prevention Studies, Mc-Cann Erickson, (draft of paper)
- Private Police in the United States: Findings and Recommendations.
 A Report prepared for the Dept. of Justice, Rand Corp., Nov. 1971.
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Associations Contacted

Retail Trade

Source:

National Automobile Dealers Association National Auto Theft Bureau National Appliance & Radio/TV Dealers Association National Retail Hardware Association National Lumber & Building Material Dealers National Retail Merchants Association American Retail Federation National Association of Chain Drug Stores National Association of Retail Druggists National Restaurant Association National Association of Food Chains SuperMarket Institute National Congress of Petroleum Retailers National Licensed Beverage Association Association of General Merchandising Chains U.S. Chamber of Commerce National Oil Jobbers Council Insurance Information Institute American Insurance Association Travelers Insurance Company Insurance Services Office, N. Y. The Surety Association of America U.S. Department of Justice, LEAA American Society for Industrial Security DHUD, Federal Insurance Administration

Manufacturing

Select Committee on Small Business - U.S. Senate Automotive Service Industry Association National Association of Manufacturers American Society for Industrial Security Aerospace Industries Association Automobile Manufacturers Association Truck Body and Equipment Association American Insurance Association National Association of Wool Manufacturers National Knitted Outerwear Association

Associations Contacted (cont.)

Wholesaling

National Association of Wholesalers and Distributors National Wholesale Druggists Association Automotive Service Industries Association Wine and Spirits Wholesalers National American Wholesale Grocers Association Norman Jaspan Associates Insurance Information Institute

Services

American Hotel & Motel Association
American Institute of Laundering
National Hairdressers & Cosmetologists Association
Shoe Service Institute of America
National Association of Theater Owners
Institute of Industrial Launderers

Senator McClellan. We also have prepared statements from Senator Roth and from Senator Griffin.

Senator Roth and Senator Griffin are cosponsors of the bill, and submit statements in support of it. These statements will also be incorporated in the record at this point.

(The statements submitted by Senators Roth and Griffin follow:)

STATEMENT OF SENATOR WILLIAM V. ROTH, JR.

We have all been aware for some time of the rapidly increasing crime rate and its effect on the daily lives of the citizens of this country. Fear is an element stemming from crime which dominates the lives of many city dwellers today. The fact is that such fear is ever becoming more justified as the vicious criminal strikes indiscriminately. We must alleviate the suffering of citizen-victims who have done no wrong but are severely injured by the vicious criminal. And we need to recognize that the policemen of our society are the prime victims of the criminal. Assaults on police have more than doubled in the last six years.

Viewing this pressing need for action for the victim of crime and the threat being posed to the law enforcement profession, I would like to once again stress my support of S. 2994 and S. 2748. The first bill would provide for the compensation of innocent victims of violent crime in need and the latter would provide benefits to survivors of police officers, prison guards, and firemen killed in the

line of duty.

So often statistics, even though they represent real people in haunting, tragic circumsances, become just numbers on a piece of paper. Unless that person is an acquaintance or loved one, the real horror of the murder of policemen fails to become quite as real. The same is true concerning the consequences of the battering of an innocent citizen who sometimes loses his life, but more often loses his capacity for earning while trying to meet enormous medical expenses for damage suffered at the hands of the violent criminal.

The statistics say that 125 police officers were killed by criminal action during 1970. I became concerned early in the 1960's concerning the assaults that appeared to be mounting against those men whom we appoint to keep the peace in our society. Yet I became involved on a personal level only days after the new year began and an incident occurred in my home State of Delaware which left two

State troopers dead.

Ronald Leslie Cary and his partner David C. Yarrington were apparently shot by two bandits in the parking lot of a motel as a man and woman attempted to flee the hold-up scene. The killer of these two fine young men had been paroled from prison in 1970, declaring to his fellow inmates just prior to his parole, "When I get out, I'm going to get me a pig. and after I get me a pig, they'll never get me alive." His wish, "to get me a pig," shows in a pathetic, twisted way the real threat posed to policemen today by those elements of society who are contemptuous of the law.

American law enforcement is in a growing state of crisis beleaguered by a host of problems, but most important perhaps is that of the policeman's own safety. Last year the police were attacked more than 43,000 times. During the period 1961–1971, 758 officers were murdered. Contrast this loss with Britain's 24 police officers killed in the line of duty in the last 50 years, and we see immediately the

enormity of the American problem.

Douglas MacArthur, commenting on another situation, made a remark which strikes me as fitting to those men who die enforcing our laws, "I did not know

the dignity of their birth, but I do know the glory of their death."

It is because of this concern for the men who ask to protect our lives and properties, and for the families they leave behind them, that I joined other Senators last year in introducing a bill to provide up to \$50,000 for the survivors of a police officer who has been killed in the line of duty. The bill that I cosponsored was later made a part of the Victim of Crime Compensation Act of 1972, S. 2994.

It is not only the policemen who are threatened, but all persons involved in law enforcement, public safety work and the administration of criminal justice, along with their families, who have become the victims of fear in today's troubled world.

For this reason I introduced a bill which would make it a Federal crime to assault or commit other crimes on law enforcement officers. The bill is limited to State and local policemen, firemen, judicial officers, and prison guards because the Federal law already provides assistance to most Federal officers who are killed during or on account of the performance of their official duties. Although such crimes are now covered by State laws, I believe that the particular nature of the offense demands that it be made a Federal crime in that it strikes at our basic ability to continue as a nation, Passage of this bill would permit the F.B.I. to assist State and local authorities in investigating these crimes and tracking down criminal suspects. This bill is designed to apply to situations where an official is singled out and attacked as a symbol of the establishment because of his official position.

When we lose a dedicated law enforcement officer, when we lost a Ronald Carey or David Yarrington of the Delaware State police, a portion of the law

we respect dies with him.

The plain fact is that the threat of violent crime endangers the daily living of almost all Americans. The fear of being assaulted, mugged, robbed or raped causes people to stay inside their homes at night. And even though Americans are staying home, a recent poll taken by Life magazine that 78% of urban dwellers are afraid in their own homes. The amount and rate of violent crime over the last 10 years has been frightening. Between 1960 and 1970, violent crimes rose 156 percent. In 1970 alone, 731,402 acts of violence were reported to the police. This means that a crime of violence occurred every 43 seconds last year in America.

We have no actual figures to say exactly how many Americans become victims of such violent crime, but I feel that the victim, if uncompensated, has been denied the protection of the law and that our society should begin to assume some responsibility for him. Financial hardships, such as paying hospital and doctor bills and suffering lost wages, are particularly difficult to bear.

Opinion polls of the American people indicate that the vast majority of the public favors a victim compensation plan. Compensation to victims of crime has also been recommended by a Presidential task force and the International

Association of Chiefs of Police.

Although we are spending millions of dollars on the rehabilitation of criminals, and should probably spend more in new programs for corrections, we have left the victim of crime to fend for himself. Let us correct this injustice as fast as humanly possible. We should pass legislation in this session of Congress that will allow the victim of crime to feel the compassion of his fellow countryman.

STATEMENT OF U.S. SENATOR ROBERT P. GRIFFIN

Mr. Chairman, in 1966, when I introduced a bill in the Senate to aid the victims of violent crimes through a tax deduction, I said: "Only those who live daily with fear for their lives and their material possessions can fully understand the terror that crime has struck in the hearts of millions of Americans."

That was in the middle of our most dangerous decade. The national crime rate more than doubled in the 1960's. Since then the rate of increase has sharply declined, from 17% in 1968 to 6% in 1971—the smallest increase in five years. 52 of the nation's largest cities experienced an actual decrease in crime in 1971, compared to 23 cities in 1970.

But these statistics are small comfort to the innocent victim of violent crime. When a crime is committed, we hear a lot about how the crime was an act "against society." Too often ignored in all the hue and cry is the innocent victim.

One such victim recently wrote me from Jackson, Michigan. She said:

"On October 1, 1970 I was brutally attacked in my own home. I was beaten, raped, strangled into unconsciousness, set on fire and left to die. My assailant . . . is currently serving a life sentence in Southern Michigan Prison for the vicious crime of trying to murder me. . . .

"My burns were 85% full thickness.... The agony and pain were so utterly unbearable I was completely out of my mind for 13 weeks.... I have only half fingers. My breasts were burned away completely, and after trying for 5 months

to save my left arm . . . they had to amputate it

"I am scarred for life from my chin to my toes. I am unable to take care of my family or run my household. I will never be able to get a wage-living job nor will I ever be eligible for medical or life insurance. I am scheduled for countless

"We are trying to survive on about \$300 less than before this happened a month. I have Medicaid now but they will not pay for Occupational Therapy, which is teaching me how to use my artifical arm. It costs about \$50 a session. . . The small amount we get when my husband has to miss work to take me back and forth to Ann Arbor cannot even begin to compensate for what he is

losing for not being able to work a 40-hour week.

"Why do I have to accept less from life because I was an innocent victim? Must my children suffer always? Isn't the mental anguish for not being able to live a normal life enough? Must I always scrape and scrimp for the essentials. I ask you, is this living or existing? Am I not entitled to some sort of compensation for this cruel fate I must live the rest of my life? As a member of Congress in this great and fair country, please help me."

Mr. Chairman, traditionally, American law has left the victim of crime with no recompense unless he can locate the criminal and then sue him in civil court for damages. But in most cases that's about as meaningful as trying to squeeze

blood from a turnip.

Out of every 100 crimes, 74 victims suffer economic loss. But only 2 of these

ever recover anything from their attackers.

Needless to say, there is no substitute for an adequate supply of cops on the beat. But when society does not protect a person from being victimized, it seems reasonable that society should bear some obligation to the victim for that failure of protection.

It has been suggested that there is some similarity between the notion of workmen's compensatoin and the idea of victim's compensation. One is related to the effort to assure workers of a reasonably safe place to work, and the other to the effort to assure people of a reasonably safe society in which to live.

In providing assistance not only to citizen victims, but also to policemen, firemen, and prison guards, the bill. S. 2994, is a powerful reaffirmation of our support for those brave men on the front lines of public safety and protection.

Several other countries with a tradition of Anglo-American law have initiated victims compensation programs, as have a few states. The idea is far from radical—it goes back as far as the Code of Hammurabai, 4000 years ago.

Mr. Chairman, I am pleased that the legislation now before the Committee incorporates some important features of the bill that I first introduced in the Senate six years ago. This measure has solid bipartisan backing, and I am convinced that it embodies an idea whose time has come.

Senator McClellan. Now, is there anything further before we continue?

I believe now we are ready to proceed with the witnesses who were scheduled to testify today.

Mr. Counsel, call the first witness.

Mr. Blakey. Congressman Mikva, please.

STATEMENT OF HON. ABNER J. MIKVA, A REPRESENTATIVE IN CONGRESS FROM THE SECOND CONGRESSIONAL DISTRICT OF THE STATE OF ILLINOIS

Senator McClellan. Good morning, Congressman.

Mr. Mikva. Good morning, Senator.

Senator McClellan. We welcome you this morning to our hearings,

and we are glad to have you scheduled as the first witness.

I recall very pleasantly our work together when we served on the National Commission on the Reform of the Federal Criminal Law. I think that that Commission did a monumental work.

Now, we have the responsibility over here of trying to process its

recommendations. It is quite a task.

But I still think that the work of the Commission was, and will be, a great contribution toward the revision and the codification of our Federal statutes.

You have a prepared statement, Congressman, do you not?

Mr. Mikva. Yes, I do, Senator.

First of all, let me express my appreciation for the opportunity to appear and to return the compliment by saying that I deeply appreciate the privilege of having served with you on that Commission, and with Senator Hruska. I think the work of that Commission will go a long way toward codifying our criminal laws and, hopefully, bringing some needed solutions to some of the problems that face us in the criminal laws.

And in that same respect, I would like to commend the chairman of

this subcommittee for acting with such vision on this subject.

This is an idea whose time has come, and I think that the fact that it comes in under the distinguished sponsorship of the chairman of this subcommittee, along with the other Members of the Senate, is the best indication that not only has the time of this idea come but that the time of its enactment has come, and, hopefully, before this Congress adjourns we can have some compensation legislation on the books.

Mr. Chairman, there has been no shortage of hearings and reports

and studies on the subjects of crime-victim compensation.

I recall, when I was in the State legislature, I headed up a commission to try to set up in Illinois a scheme which is still pending. The final report of my commission can be found in some hearings that were held in 1969 before the Senate District of Columbia Committee when Senator Tydings was trying to establish a system for the District.

And I might add that those 1969 hearings in the Senate offer some source of background for information concerning the justifications and the need for a means by which the victims of violent crime can be

assisted.

And, in addition, the subject was discussed in the report of the National Commission on the Causes and Prevention of Violence. The distinguished majority leader of the Senate, as, indeed, the distinguished chairman and other members of this subcommittee, all refer to the various justifications and studies that have been made, and I do not propose to add to the volumes of literature on whether we ought to establish a crime-victim compensation system. All of our presence here today is some indication that we are all satisfied that there is an important need for such legislation.

Rather, with the committee's leave, I would like to comment on some specific provisions in the chairman's bill and on some provisions I

think could be added to the bill.

I have been the author of H.R. 11331, the Crime Victim Compensation Act of 1972, which is a much more limited approach to this problem. But, in doing that, in drafting that bill, I have wrestled with some of the problems that the subcommittee will face in S. 2994—at least, in title I.

Let me say parenthetically, Mr. Chairman, that I heartily support the principles of title II and title III of this bill. They have been the subject matter of other legislation over in the House, and I hope they will remain in the bill, though they are perhaps less controversial or at least less encompassing than title I. I would like to move now to the chairman's bill in the order of the sections.

Some of the comments are of a technical nature, and some others

will suggest some substantial disagreement with the approach.

First, on page 4 of the bill at line 15, "child" is defined in such a way as to exclude a child conceived and born as the result of a criminal rape of the mother, and I commend the chairman for making a hard decision in the way he did. This section reflects one of the fundamental difficulties which is posed by compensation legislation: what should be the outer limits of compensations; who should be compensated, and what amount of limitations? These are always difficult, but, obviously, they are necessary in order to maintain the proper relation between the purposes of the statute and the result it tries to achieve.

Child support is a continuing responsibility which is more properly handled through general assistance programs like public assistance and social security which are designed to insure an adequate income

for all families in need.

Moving to page 5 of the bill, starting at line 13, we find the definitions of "personal injury" and "pecuniary loss," which govern what kind of losses are compensable. As drafted, the bill probably excludes recovery of damages for intangible pain and suffering. I would hope that the subcommittee in its markup can make that very clear, that it is not intended to cover such intangible pain and suffering, because, otherwise, knowing lawyers as we do, this is going to be the kind of issue that could bog down the whole program.

I think that there is no adequate standard for measuring these intangible losses in monetary terms, and the result, when we try to measure them is protracted legal proceedings which produce widely incon-

sistent awards.

Very simply put, a money award does not truly compensate for pain and suffering. It is more in the nature of a symbolic compensation, and it exaggerates the proper role of a compensation system which is to make up for losses sustained.

So, I hope that can be made very specific in the legislation.

Let me turn then to loss of future earnings which is specified as com-

pensable, but there is no indication of how this is to be computed.

And, once again, I sympathize with the drafters. That is a difficult kind of provision to catch on. Perhaps, our legal forefathers in the common law handled this better than any of us in our more recent efforts to try to define loss of future earnings, and maybe the common law approach to the problem is the best.

In my own bill, I have tried to apply a standard of average monthly earnings during the 6 months prior to the injury, or \$500 a month, whichever is less, to set a maximum on it. Perhaps, a better yardstick would be the 6 months during which the victim was last employed.

It still leaves unanswered the problem of students or of housewives who are about to enter the labor market but who have not been there before.

So, that is why I said the common law definition, which personal

injury lawyers have wrestled with over the years, is best.

Next, let me turn to the definition of "victim" or page 6 at line 15. It includes any person injured or killed while assisting a law enforcement officer to apprehend a criminal or to prevent a crime. And,

I believe, both the chairman and Senator Hruska commented on this. I think, though, as it is now written, it would not include a similar Good Samaritan who acts on his own before the police arrive on the scene. The subcommittee might want to take a look at my own provision in H.R. 11331 for one approach to the extending of compensation to all persons injured while trying to stop a crime or catch criminals. I think this again is a fair means of trying to distribute justice under the bill, and, second, it is one way to encourage people to step in to help victims of crime.

With respect to the composition of the Commission, section 451 requires that the Chairman be a lawyer. The subcommittee may want to consider inserting an additional requirement that at least there be one member of the Commission who is a doctor, since many of the cases will require the need of a considered medical judgment as to

the extent of injuries and treatment required.

Let me turn now to what I consider a very difficult part of the procedure, and that is section 460(b) on page 16 which established the right of applicants to a hearing. I would be remiss if I even tried to argue this to this distinguished committee that deals wih constitutional rights so often, the requirement that people have a right to be protected by some kind of a hearing. I would merely suggest that there be some kind of a screening process so that every crime need not result in a formal hearing.

I am afraid the Commission would get bogged down in just the sheer number and that we would have a lot of frivolous claims. In my own proposal, I have suggested that there be a panel of one member that could review claims and would decide which ones need not get the full, formal hearing of the Commission. Otherwise, I am afraid that the cost of the Commission and the length of time involved in processing claims

would be substantial.

Section 464(a) restricts the right of compensation to those victims who are financially needy. And this, to me, is perhaps the most trouble-some provision of the bill.

Mr. Blakey. Congressman, may I interrupt?

Mr. Mikva. Yes.

Mr. Blakey. The standard in the bill is "undue financial hardship,"

is it not? So, it is higher than needy?

Mr. Mikva. I think that is correct, and I would amend my statement to use the words of the bill. I think that it is, and I think I am also aware of the thrust of the bill, and that is to avoid creating windfalls for those victims whose hurts do not create the kind of hardship that is described in the bill.

And I share that concern. We are not seeking to—this is not intended to be a universal, uniform insurance scheme which is to protect everybody from every kind of loss, and I mean, obviously, my earlier comments indicate that I support the judgments that have been made in terms of excluding certain kinds of lawsuits. Indeed, property losses, which account for a good part of the cost of crime, are excluded, and I think wisely so.

My concern, though, and I am sure the committee shares the same concern, is that this not be another adjunct to the welfare system. We have had enough difficulties in trying to administer the welfare system that we have so that we would not want to put another appendage

on it which would create just one more cause or separate category for assistance but would not really do anything about solving what to me is the most frivolous part of the victim-of-crime syndrome because the fact of the matter is, Senator, if you are very, very poor and you are victimized by crime, the present welfare system does take care of you, well or poorly, depending on the State, in which category you fall into, but the welfare system does not take into account those people who are so totally destitute that they fall within the definitions of dependency under our welfare laws.

I am concerned more, and I think the subcommittee is concerned more, about that big hunk of middle America who may not be completely wiped out, who may not qualify by the public assistance laws of the various States but for whom crime has been a tremendous tragedy and for whom the financial impact of that tragedy goes on and on and on, and maybe it never will wipe them out completely but will keep them from achieving and aspiring the dreams and hopes and

aspirations that every American ought to be able to have.

Mr. Blakey. Would you characterize those people as having "un-

due financial hardship"?

Mr. Mikva. Yes, I think so. And, perhaps, our argument here is only a matter of words—and maybe not even words. Maybe it would be the legislative history that would accompany that provision. I would only ask the members of the subcommittee to be careful that it not fall into the pitfall that I would characterize—and I mean no disrespect to the sovereign State of California, but I think that the California system has—by and large—not been successful, because its definitions were such that it became just another piece of the welfare system, and when one files a claim for compensation because he is the victim of crime, it is managed by the welfare department; it is taken out of welfare appropriations.

He must meet all of the requirements of a welfare recipient before he can qualify, and what we have got is just another category, like old-age assistance, or aid to the blind, or aid to dependent children, and it does not have the thrust I think the subcommittee intends, judging from the statements of the distinguished Senator from Arkansas and the other members of the subcommittee and, indeed, the

majority leader.

So, what I am urging here is not that your words are wrong but merely that we be aware and trying to make sure that this is not a welfare program or a windfall for the rich, an extra buildup for those who do not need help and that we not make the standard so tight that we keep out that large group of people for whom I think the bill is primarily aimed, and that is the average American who may not become pauperized by a crime but who can no longer send his children to college as he intended and planned, who can no longer maintain his standard of living to which he had become accustomed, who no longer can keep up the payments on the house or the car, who no longer can be a useful member of society but must fall in that netherland where they are too rich for the welfare laws and too poor to be an aspiring, happy American citizen. And I think that is the area that I hope that this bill and these definitions will aim at, and I commend you well in your endeavors because it is a hard task indeed.

I merely want to point out that there is no reason—and I do not

believe that this subcommittee desires to restrict compensation to the poor; my own proposal would provide compensation to all victims of crime, with a certain maximum limitation on the top, regardless of their financial status. I would hope that S. 2994 would be amended similarly, if not going that far at least far enough to make it clear that we are not trying to create a new piece of welfare legislation which would only aid the pauperized who probably are aided by existing welfare laws.

On this point, the committee may be interested in an article which appeared in yesterday's New York Times Magazine. It describes the workings of the New York State Crime Victim Compensation Plan which has been in operation for 6 years. You will note that one of the areas where the author is most critical of the way the New York

plan is operated is in the matter of financial eligibility.

The financial eligibility requirement has resulted in the disqualification of a number of applicants for compensation by crime victims who suffered substantial costs but who, in the eyes of the administering authorities, were not sufficiently hard up financially to warrant assistance. We would do well in framing a crime-victim compensation statute to avoid the felt unfairness which results from such arbitrary distinctions among victims.

It is the fact that the large majority of crime victims are poor and would be eligible for compensation whether or not financial eligibility requirements were imposed. For this reason, I suggest that the minimum compensatory injury be lowered from \$100 as proposed in section 464(c) to \$50. Even in today's inflated economy, a \$100 loss can be a devastating blow to a family with an income of \$100 a week.

But I would also hope that we aim just not at those very, very poor

who would qualify for welfare.

Let me finally draw the subcommittee's attention to section 464(f)

on page 19 of the bill.

It establishes a limitation of \$50,000 per crime, apparently regardless of the number of victims. This seems to me unduly harsh if we are seeking to distribute justice to victims of crime. Why should the victims of a mass shooting, as in the case of the sniper at the University of Texas a few years ago, be less fully compensated than another victim whose assailant was less prolific?

Mr. Blakey. Congressman, would they not be individual murders? Mr. Mikva. I would hope so, but, then again it may just be a matter of word usage here. I have no quarrel with a concept which says that the maximum compensation to any victim should have a top, because, again, we are not aiming to try to make somebody rich by this bill or this scheme.

But I would hope, if we are talking about some kind of mass crime, that we make it clear that, if there are 50 victims, each stands in its own category and it not be one amount.

Senator McClellan. I am sure that is the intent, and if the present language does not accomplish that we would certainly want to amend

it so that it will.

Mr. Mikva. Finally, Mr. Chairman, let me just say that nothing in this bill will reduce the incidence of crime in America except perhaps tangentially. But until we are able to eradicate crime, it will at least redistribute more evenly the burden which today falls capriciously

on those who are so unfortunate as to be in the wrong place at the

wrong time—the victims of violent crime.

Mr. Chairman and members of the committee, that completes my statement. I commend you on the task you have undertaken. I think I can speak for the members of my own House Judiciary Committee, that if the Senate will act on this bill and will get us a bill over there, I think we can give it the kind of expeditious hearings within our own committee that it deserves, and I think it will take the kind of Senate leadership here to get us moving, and I commend you to your task.

(The article "If You Are Maimed by a Criminal, You Can Be Compensated (Maybe)" referred to, and submitted by Mr. Mikva. follows:)

[From the New York Times magazine]

IF YOU ARE MAIMED BY A CRIMINAL, YOU CAN BE COMPENSATED (MAYBE)

By Wayne King 1

(Six years ago New York State adopted a law to reimburse victims of violent crime for their losses. So far only about 1,800 persons have collected. . . .)

Friday had been a good day for Jack Harris. His wife, Nelle, who had been sick for several weeks, was out of the hospital; his four children were excited about Christmas, a week away, and the car trunk was full of presents for them from fellow employes at Northshore Hospital, where he worked as a kitchen helper. Everyone seemed happy and expectant. All in all, a very good day,

The only nagging thing was the little dog next door. It wasn't big enough to be called vicious, just feisty; an angry little dog with an almost uncanny ability to jump over fences on the street four or five times taller than it was. To Jack Harris the dog seemed to be a little like the middle-aged neighbor who owned him, Robert Collier. Persistent, petulant, Collier didn't seem to like people very much.

Harris does not think of himself as a prideful or arrogant man; like most of the black migrants from rural Mississippi, some of whom lived near him in the same section of St. Albans in Queens, he had been brought up in a life-style that scarcely accommodated that kind of personal luxury. He had worked the rich Delta fields, chopping cotton and picking it, and he had washed dishes in a cafe in his little all-black town of Mound Bayou, growing up like his 12 brothers and sisters with a kind of stubborn endurance that dictated, as he put it, that a man tries to act like a man and do what he has to do.

That's what he had tried to do about the dog, just what any man would do. He had gone over to talk to the neighbor about it. There had been problems before, but this time it was worse. The dog had jumped into the back yard and chased his sister-in-law, seven months pregnant, and when Harris came home,

she was near hysterics.

So he had gone over to talk to Mr. Collier, giving him a little lecture about brotherhood and how it was downright unneighborly to let that little dammit of a dog chase pregnant women around the back yard. He tried to be friendly about it, even deferential, at one point even going so far as to pick up Collier's cigar for him when he dropped it during what the police later described as a "verbal altercation."

Collier seemed in a fighting mood. But Jack Harris wasn't having any of that. For one thing, he was 28 years old, tall and strong, and it didn't seem right to hit a man twice his age. So he had given up and gone inside his two-story house

and everybody there had had a big laugh about it.

He went back out about 45 minutes later to unload the car trunk. One of the Harris children, probably 4-year-old Brian (Mrs. Harris doesn't remember for certain), saw what happened next through a window. Or perhaps he didn't, perhaps he simply assimilated the patterns of noise and excitement into a vision that for him had all the vividness of a borrowed reality.
"It was just like on TV," the boy told his mother later. "The man pulled a gun

and shot daddy, and daddy fell down dead."

¹ Wayne King is an editor on the national desk of The Times.

It was, of course, not like that in its hard actuality, neither so clinical, nor

so brief, nor so final.

Three months later, to the day, on March 18, 1971, Jack Harris became the 3,370th person to file a claim with the Crime Victims Compensation Board of the State of New York. The Harris boy had been wrong; his father had not been killed. There had been a single shot from Collier's rifle—which, in a dim irony, was later identified by the police as a 7.35 mm. Italian Carcano, the same type of mail-order weapon that had killed John Kennedy—and the bullet tore into Harris's back as he wheeled to run, destroying a kidney and severing nerves in his back, paralyzing him from the waist down. Harris remembers Collier saying, "I didn't like what you said."

The files of the crime compensation board are filled with cases like Jack Harris's, all different, but with the common elements of sudden, unexpected violence. An elderly storekeeper in the Bronx opens his door in the morning, to be greeted by a gunman who orders him to the floor, shoots him once in the head, killing him, then turns and wounds his wife. A woman walking in Prospect Park in Brooklyn turns to look at a boy bicycling by; the boy grabs her purse, and throws her to the ground, jerking her shoulder out of joint. Or the recurring incident: someone walking down the street, often elderly; a mugger snakes an arm around his neck, throws him to the ground, kicks him in the ribs or the face. There is robbery, rape, murder, mugging, random assault—a swelling litany of violence, each crime with a perpetrator and each with a victim.

New York State's crime compensation program was adopted by the State Legislature six years ago to aid the victims, people like Jack Harris who are suddenly wiped out financially through no fault of their own. Six other states have similar programs and Congress is now considering a plan to provide the states with 75 per cent Federal funding for such efforts. (At least eight states have

proposals pending to set up programs.

The programs are essentially based on the concept that society has an obligation to protect its citizens against crime, and that when it fails to do so, it must assume the burden of replacing the worst of their losses. The concept is not a new one. The ancient Babylonian Code of Hammurabi, promulgated about 2100 B.C., included a provision for compensating victims of robberies:

"If the brigand be not captured, the man who has been robbed shall, in the presence of God, make an itemized statement of his loss, and the city and the

Government shall compensate him."

Such exalted social theory apparently was well ahead of its time, since it was more than 4,000 years later that it was re-adopted, in New Zealand in 1963 and

in England in 1964.

In the United States, the first state to adopt the principle was California, in 1965, but it was some time before the program was put into practice. The New York program grew out of a widely publicized incident in 1965 in which a man was stabbed to death coming to the aid of two women being molested on a subway. The New York City Council, in response to public pressure, awarded the man's widow a yearly stipend and shortly afterward passed the Good Samaritan Law, which provides compensation for persons hurt coming to the aid of a policeman or a crime victim on public property.

The state program, although stimulated by the same crime, is in no way connected with the Good Samaritan Law and has much wider application. Fewer than a dozen awards have, moreover, been made so far under the Good Samaritan program. Few people in New York, it appears, have been hurt coming to

someone else's aid.

The Crime Victims Compensation Board handles all cases in which a person is hurt in the state as a result of a crime. It does not pay for property loss, only

for medical care and lost wages.

There is no dearth of potential claimants. In 1970, there were 122,976 violent crimes in the state, according to F.B.I. statistics, including some 1,500 murders, 2,800 forcible rapes, 80,000 robberies and 38,000 aggravated assaults. Not all of these produced injuries, of course, but the figures indicate the magnitude of the problem. Given this, it is at first surprising to learn that the crime compensation board has received only about 5,100 claims since its inception; and of those, only about 1,800 have received awards, with another 1,300 cases in process.

Closer examination reveals the reasons. Oddly enough, one of them seems to be that very few people know the program exists. "There are even prosecutors who have never heard of it," says P. Cincent Landi, one of three board members who

administer the program and adjudicate cases, two in New York City and a third, Chairman L. Van Rensselaer, in Albany. The board does no advertising and, short of occasional press mention, word passes almost by happenstance, from friend to friend.

Nelle Harris learned of the board a week or so after her husband was shot, from a neighbor whose insurance work often took him to courtrooms. Even then she made no move to apply for an award, although it was obvious by then that many months would pass before Jack Harris could return to work—if ever. He had been on an operating table for six hours at Queens General Hospital while doctors quelled massive internal bleeding, patched up vital organs and simply shook their heads over the shattered nerves.

When the Harrises finally did apply for help, through lawyers, it was three months later, just within the 90-day limit set by law. Under special circumstances—serious injury and hospitalization, for instance—the period can be waived and applications accepted up to a year after the crime. (Offices of the Crime Compensation Board, listed in the phone books in Albany and New York,

will mail out application forms upon telephone request.)

Some potential applicants are turned away after initial informal inquiry when it becomes clear that they do not meet minimum requirements for assistance. Harris' case seemed to meet them all, although every key statement had to be authenticated in a lengthy and tedious investigation. The case took eight months; the average is about three months, though a few stretch to more than a year. "This is public money," says Angelo Petromelis, the stocky, affable superviser of investigation in New York. Petromelis, 43, oversees the office staff and six city investigators (three more work in Albany), each of whom carries about 40 cases continuously and manages to dispose of about 15 each month. There is a current backlog of about 1.100 cases, stretching longer every month. Petromelis, who worked for 10 years as an investigator of consumer fraud cases for the New York State Banking Board (and who once worked the other side of the street, repossessing cars), says the intensive investigation is necessary not so much to detect fraud as to make sure compensation is not available elsewhere.

"You can count the fraud attempts on your fingers," he says, chewing on a cigar, "but there are some people who will try to pad their claim, throwing in other bills—you know, having their appendix taken care of while they're in the hospital." (In one case, a grocery manager filed on the basis of a broken leg and other injuries sustained in a holdup; there had indeed been a holdup, but the

broken leg came later, in an accidental fall.)

But the major aim of the investigation is to find untapped sources of compensation already available to the crime victim. The Harris file is typical: an inch thick with 29 separate documents, ranging from a copy of his tax return to five pages of notes on informal phone conversation. The board does not regard it as necessary for applicants to hire lawyers—Harris's were already working for him on a related matter—and their fees must come out of whatever award the claimant gets. About a fifth of those applying hire lawyers. "This is not an adversary proceeding," explains Petromelis. "We consider it our job to make

awards wherever possible, not to go out of our way to deny them."

Application is made on a four-page form requesting details of the crime, injuries, expenses and any medical insurance the victim might have. In the Harris case, medical expenses were formidable, nearly \$40.000. This meant that he met a key test—financial hardship. Although the Harrises owned their home, its value was not taken into account, consistent with board policy. Despite his slender take-home pay of \$102 a week, he had also managed to accumulate savings of \$3,000. This too, was considered inadequate to forestall serious hardship. Bank statements and Harris's most recent tax return were requested and submitted to document his assets. Because of the bank balance, however, a request for an emergency award—up to \$500, payable immediately—was denied. All medical bills already paid by the Harrises were submitted and reimbursed.

Unlike many in his situation Harris had substantial medical insurance—Blue Cross, Blue Shield, Medicaid and a group employe policy. The state program pays only those expenses that are not reimbursed by some other source. It was also determined that Harris met the minimum requirement for lost wages—at least \$100, or two weeks of lost pay. Disability payments were deducted from

the total lost wages.

Harris also met the requirement of "innocence" in the incident—a nettlesome question in many cases. To be eligible for an award, the victim must not have

provoked or substantially contributed to the attack. This is not always clear-cut. In Harris's case, there had been an argument. The police report on the incident, however, corroborated Harris's statement that he had done nothing to provoke his assailant and had, in fact, tried hard to avoid a fight. Even if there had been a fight, the circumstances were such that Harris would probably have been ab-

solved of provocation.

"The key point here is the amount of force used," explained board member Landi, an imposing, nattily dressed attorney who has practiced law for 40 years, including several years as a referee in workmen's compensation cases. "If there is a fist fight, and someone pulls a gun and shoots the man he is fighting with, then it's fairly clear that the victim has not provoked that response, a deadly response. If he pulls a knife or gun himself, then it becomes an entirely different question."

The guideline sometimes becomes fuzzy. Consider the case, filed with the board, of a man who became entangled in an argument with another while standing on

line at a food service counter.

The man left the restaurant and returned later to renew the squabble, this time brandishing a claw hammer. He strode toward his enemy and swung the hammer at him. The man pulled a pistol and shot him dead. Provocation?

No. At least not in the view of Max L. Nissman, the other board member who, with Landi, is based in an office at 80 Centre Street in Manhattan. His reasoning went this way: Despite the fact that the man had left and returned with what could be considered a deadly weapon, it seemed clear from his actions, on the basis of witnesses' testimony, that he had not intended to inflict deadly injury. He had swung, the hammer at the man's legs. Moreover, Nissman felt that if the assailant had not been carrying a gun, he would have left the scene—but that he had in fact incited his victim, walking toward him and taunting him. An award to the man's family—a death claim to cover burial and other losses—was authorized.

A death claim filed by the family of a man who had visited a prostitute and been beaten to death in her apartment was denied, however, partially on the grounds that if the man had not chosen to engage in an illicit situation he would not have been killed. He shouldn't have been there in the first place, the board sniffed.

Similarly, the board rejected the application of a widow who said her husband had been shot to death in a bar and grill below their apartment one evening. The board found no cause for an award. The victim was scarcely innocent, since

in fact he was shot while burglarizing the place.

Other cases rejected out of hand involve family situations. A provision in the statute that established the program serves to eliminate all claims growing out of domestic squabbles. No award is made when the victim is hurt or killed by someone related to him. A father-son assault, for example, is not considered to be as clearly society's responsibility as a mugging or a robbery. The myriad man-wife assaults and killings are thus not covered. Nor is a man shot by his mistress eligible. It's not entirely a matter of bureaucratic morality: there is a conscious effort to avoid the possibility of a prearranged fraud on a family claim.

It is not required that the injured party be hurt directly by the criminal, as in a mugging or assault. The requirement is that he be hurt as a result of a crime. Thus an innocent person wounded by a stray bullet in a chase is eligible, if he meets the other requirements. In Brooklyn, a 67-year-old rabbi, permanently disabled, receives \$152 a month from the board as a result of injuries he suffered when he jumped from the window of his second-story apartment to escape a pair

of assailants. His medical expenses were also paid.

There is no legal limit to payments for medical care under the New York program. The largest award so far, more than \$25,000, was recently authorized for the parents of Jean Crez, a 24-year-old French exchange student who was robbed and shot in the neck last year after being forced to lie down on the floor of an apartment on West End Avenue. Paralyzed by the bullet, he later died. Although his medical expenses exceeded \$35,000, he apparently had a \$10,000 student life-insurance policy at Tulane University where he was studying.

Reinmbursement for lost wages under the program is limited to \$15,000. Most often, payments are made monthly until the amount is exhausted. In Harris's case, the payment—\$1,367—was made in a lump sum. Although Harris actually lost \$2,875, disability insurance paid the rest. Because of his extensive insurance coverage. Harris's total award from the board amounted to only \$1,615—the lost

wages plus \$248 in uncompensated medical bills—less than the \$1,930 average for personal injury awards. (Compensation in death cases, including payments for burial expenses up to \$1,000 and for uncompensated wages up to \$15,000 to survivors in financial hardship, averages \$2,040.)

For one reason or another—the major ones being failure to meet the minimum requirements, no serious financial hardship or failure to furnish necessary information—fewer than half the claims made to the board result in awards. In 1970, the most recent full year for which information is available, there were 1,090 decisions by the board; 458 claimants received awards and 632 did not.

The awards are made out of an appropriation—\$2,350,000 this year—taken from the state's general fund. The amount has grown steadily each year since the program started and is expected to keep doing so. If the appropriation proves inadequate in a given year, a supplementary appropriation may be sought. In 1970, it was necessary to obtain an additional \$100,000 from the deficit budget.

Just how many eligible crime victims have not applied because they have never heard of the program is speculative, but the stipulations of the system are such that the number who would receive awards is not considered excessively large. The requirement of financial hardship troubles the board. The question becomes particularly oppressive when applied to the elderly, some of whom have substantial savings eked out over the years from frugal living. A sizable bank account can be enough to deny an award to an applicant—even if he has no income. The board also feels that the middle-income wage-earner and taxpayer is unfairly penalized, since his losses, which might be substantial, are not recoverable unless they create serious financial hardship.

There are other criticisms that can be made. A major one is that the program, because it is not widely known and because it places stringent restrictions on eligibility, touches only a tiny percentage of the victims of crime. Another is that the application procedure is sometimes laborious and discouraging; the administration of the program is unwieldy and—perhaps necessarily—well-wrapped in red tape. (Personnel costs alone will take \$233,000 out of the \$2,637,000 appropriation this year.) And, when it is over, the award, as in Jack Harris's case,

is often relatively small.

Set against the huge, if themselves inadequate, outlays for prevention of crime and rehabilitation of the criminal, the expenditure for the victim is pitifully small, and does far too little to rehabilitate him. Nor does it do much to heal the psychic scars that, in extreme cases, abuse at the hands of a criminal can produce, especially among the elderly. With crime rates—particularly those for violent crime—growing at an alarming pace, the question of what happens to the victim after the blow is struck is certain to become a matter of greater

concern. Should as much be spent on him as on the criminal?

Despite total paralysis below the waist and almost constant pain, Jack Harris has returned to his job at Northshore Hospital. His assailant, Collier, was charged with assault in the first degree, a felony involving the inflicting of grievous bodily harm. He was allowed to plead guilty to the lesser charge of second-degree assault and was sentenced last October to three years in prison. Harris is undergoing therapy for the paralysis, but his condition is described as "static." He has refused welfare, because that would mean allowing a lien on his home, which he and his wife refuse to jeopardize. His new job, making sandwiches, allows him to work sitting down, but working alone in a corner depresses him sometimes, so now he also works inside the cafeteria, at the cash counter, where he sees people. If he is again hospitalized and unable to work, the state will reopen his case. He still wears the overcoat he had on the night he was shot. It was almost new and is in perfectly good shape except for the small round hole in the back, not even big enough for Nelle to bother to mend.

Senator McClellan. Well, thank you very much, Congressman. And you heard our leader say if we could get the bill out of committee and get it on the floor that it would receive expeditious handling in the Senate, and I am confident that would occur. I was hoing we could get this bill out in time to let the House have an opportunity to thoroughly consider it and possibly get it enacted into law at this session of the Congress.

I appreciate very much the many suggestions you have made. This is not an easy bill. It is like much legislation, not easy to arrange the

language to do exactly what you want it to do and not have it interpreted to do something you had no intention of it doing.

So, this does require, I think, a very close study, and we gladly

will, with your permission, review H.R. 11331.

That is, I believe, your bill in the House?
Mr. Mikva. Let me make it clear, Senator—

Senator McClellan. And we may find some provisions in there that we would like to adopt, and I am sure you would have no objection.

Mr. Mikva. Not at all, and I far prefer your approach. Mine, as you know, is limited to the District of Columbia. I think your approach to the problem is much better and much more comprehensive, and I hope that we continue to think along the national lines that your bill

encompasses rather than my more narrower lines.

Senator McClellan. Well, thank you very much. And if we can get the bill over there to the House, you and the Judiciary Committee, your committee, will have an opportunity to further improve it, because we do not think that we in the Senate always have all of the answers. We do not and know we do not. And we can work on legislation at length here, even for quite some time, and think we have covered every aspect of it and get it on the floor of the Senate and somebody has an idea that we had not even thought of.

So, it becomes very helpful for all of us to participate and contribute our thoughts when we are trying to develop legislation of this nature,

and, particularly, legislation that is as complicated as this is.

It is hard to do. And you say we do not need to give \$50,000 to some multimillionaire and at the same time we do not want it just to be one that would be given to the poor who are unemployed, that group of people, that segment of people; you want it to be actually helpful to those who need the help by reason of the crime having been committed, and it is not easy to draft that language, and we realize that. Well, thank you very much. I do appreciate it, and the committee thanks you for your presence here this morning.

Senator Hruska?

Senator HRUSKA. May I ask a question of the Congressman?

Congressman, you are one of the few authorities on this subject specifically, because of your experience in the State of Illinois

Legislature.

Now, this is a very comprehensive measure, and I know that many specific questions were considered by you in your State legislative work. They will, likewise, occur in the consideration of this matter. I have made no checklists, and it would be quite a task to do it. Eventually, we are going to be faced with that necessity of ferreting out these problems, many of which you have already pointed out.

But here is a specific problem.

I wonder if we can get any clue from you as to what can be done with it.

This bill, in section 467, provides for recovery from the criminal, and section 471 provides for the imposition of a fine on the perpetrator of a crime, the fine to go into an indemnity fund, and so on. Whatever disposition is made of that money, it would probably fall somewhere along the line of this actual case that came to my attention recently. Last week a Maryland judge sentenced a convicted man to life im-

prisonment for the rape-murder of a young mother. As a condition of any possible parole—and all of us know how early that parole date occurs, even in a life sentence—the judge imposed the requirement that the convicted man pay 40 percent of his future earnings to the dead woman's two children.

Now the father is trying to get this term of the sentence revoked, and his reason is that it constitutes a threat to the life of the two children because as long as they live the convicted man must give up 40 percent of his income. We are dealing with a man who is a conscienceless fellow, a relentless fellow, a savage fellow, and, very conceivably, there is the likelihood that he would like to jar himself loose from a 40-percent levy on his income, and there is a likelihood of a threat on the lives of those two children.

Now, how do the proponents of victim compensation answer this

kind of an inquiry?

Mr. Mikva. Well, I think it is a legitimate concern, Senator. Obviously, you are dealing with someone whose propensity to break the rules of society has already been shown or he would not have gotten in trouble in the first place.

Senator HRUSKA. And what? With the abolition of the death penalty, all he could get for killing those two children would be another

life sentence.

Mr. Mikva. Again, now, I think this would be dependent on how we would handle our parole system, and we are currently holding hearings on this in the House—on this subject. I think the problem is this, Senator: that, while one can envision that kind of a case, in the average case, though, reimbursement or retribution by way of exacting the money, the financial part of it out of the criminal, is perhaps in itself a good kind of a deterrent and also I think does comport with our notions of justice, that the person who caused the financial loss ought to be required to pay for it.

Again, one can envision the case you describe, and it gets to be

troublesome.

Senator Hruska. Now, having in mind that most of the crimes are committed by people under, say, 25 years of age and, therefore, are very likely not to be possessed of any property, any recovery from them must be in the nature of a levy on their future earnings, if there is any recovery to be made. So, you see that is also a part of the picture. And I know—we know—that it may act as a deterrent, and, then, again, it may not. It may act also as a motivation for things we want

to prevent.

Mr. Mikva. I think that we know so little, Senator, about what causes people to kill other people that it is in those areas where we obviously get into serious trouble. I think, though, that in the average, typical crime of violence that does not involve murder, the beating, the assault, the robbery with harm to the person, and so on, that in those instances calling for a retribution for indemnity to the victim probably is a good thing. We have tended to overlook it, I think, too much in our criminal justice system over the years. As you know, it was the earliest part of criminal justice, going back to biblical times. In fact, the whole notion of an eye for an eye, tooth for a tooth was initially that there would be financial indemnification for a crime.

Senator Hruska. And sometimes the family of the offender was

called upon to pay, was it not?

Mr. Mikva. So, I think we may have let the pendulum swing too far in ignoring it. I find, for instance, that, just recently—and this involved a white-collar crime—one of the criminals that had been convicted of some financial manipulations involving I believe a savings and loan association, some crime in Maryland, was ordered by the judge to make a further reimbursement at a higher level than he had been ordering it be made at first as a further condition of parole, because he was satisfied that the perpetrator of the crime was able to pay more than he had originally been required to pay. It is not without problems, Senator. You are absolutely correct. I would hope that, in fashioning this provision, we could pay some attention to this and perhaps there would be some language taking into account the safety and well-being of the family, but something that reflects the fact that we do look to the criminal to make whole financially his victim and/or the state, depending on who makes the claim.

Senator HRUSKA. That is fine. This colloquy will probably serve as a basis for inquiring into that further. On another score, however, there is an indemnity fund provided to have some money to pay these claims. How big? Has any consideration or study been given as to how big this fund should be, how many claims will there be, what will

it involve, from the standpoint of benefits to be dispersed?

Mr. Mikva. Well, I think the Senator was quite insightful when he pointed out that most criminals do not have much property. The funds in those places that have such funds, New Zealand, England, and so on, have not amounted to a great deal, because in most instances the criminal is judgment-proof and in spending such a period of time in jail or in prison he continues to be judgment-proof for a long period of time. Indemnity funds have not amounted to very much this far.

I might point out that one of the proposals we are wrestling with over in the House has to do with whether or not we ought to compensate prisoners for their prison labor and, in part, to require them to support their families and to reimburse the victims of crime. Let the man be reimbursed at an honest wage for his honest labor and let him, in turn, take care of the responsibility he has caused, either

by way of family or victims.

Senator Hruska. Eventually, we are going to have to go before the Appropriations Committee, and we are going to have to say that we want so many hundreds of millions or so many billions. Has any esti-

mate been made as to what that figure would be?

Mr. Mikva. I believe the committee has had some estimates, and I would leave that to counsel. I would say that this is, in one respect, where, unlike most administrative law schemes that are set up, this one has overall in most States cost less than anticipated, because one of the problems, frankly, Senator, is that in places like New York many people who are eligible for compensation do not apply for a variety of reasons.

Senator Hruska. But under the act there is a duty of the Federal officer to inform them of their right to claim and to furnish them with blanks. All they have to do is to fill out the blank and they stand in line.

Mr. Mikva. This is true, in New York, too; and, for many reasons let me say this: I guess this has to do with many people that are embarrassed with being victimized by crimes for a variety of reasons: They are frightened, and, as you know a lot of crimes just are not reported, let alone the victim coming in for reimbursement or compensation. Actually, while I do not seek to underestimate the cost—and my own bill is limited to the District of Columbia—I can tell you that the amount we were talking about as an authorization was a modest one, and I could not tell you what this would cost because we are talking about matching-grant programs for the State. But I believe that counsel or others have obtained some indications from—whether it was OMB or whatever—as to what the overall cost would be of this. But, like crime, itself, it is not cheap, because the cost of crime, the ravages of crime, are very, very high. We are hoping though that this might do something to distribute that burden among a lot of people rather than have it only on the victims.

Senator Hruska. I understand. And, then, of course, we would be compelled to go into the matter of what personnel would be required to administer this act. The board which is referred to, which is created under the act, is just the beginning. If we are going to service the act and administer it in 50 States, it will take, I suppose, thousands of people to do it. I would think it would, because geographically you could not center everything in Washington. The tendency these days is to decentralize and put it in districts or regions, and so on, and then you have to handle all of these claims. Is there any estimate as to the personnel that would be required so that we could set up a table

of organization?

Mr. Mikva. Senator, I think——

Mr. Blakey. Senator, if I could interrupt there. The Law Enforcement Assistance Administration has helped the staff prepare a detailed study of the estimated cost of the projected Federal program and on the assumption of what it would be if the 50 States also adopted it. It will be included in the record.

Senator Hruska. In that event, I defer my question, because I thought perhaps in your previous study you had considered some things of this nature. If there are some statistics or findings on that I

would be happy to postpone my question until a later time.

Mr. Mikva. I just again want to commend the chairman for the scheme of this which I think prevents the kind of second bureaucracy that Senator Hruska is concerned about, because this, the scheme that is proposed in this bill, would be for the States to set up their own systems and this would merely be a grant in aid to help them finance their systems. But it would be for the States to administer the programs in each of the States.

Senator Hruska. But there are some people who are opposed to revenue sharing, and this would be block grants which partake of the

nature of revenue sharing, would it not?

Mr. Mikva. I have discovered, Senator, that revenue sharing is like motherhood, that we are all for it in some circumstances and all against it in other circumstances.

Senator HRUSKA. Thank you, Mr. Chairman.

Senator McClellan. Thank you very much, Congressman.

Mr. Mikva. Thank you. Senator McClellan. All right, call the next witness, Mr. Counsel. Mr. Blakey. Mr. Martin-Trigona.

STATEMENT OF ANTHONY R. MARTIN-TRIGONA, PRESIDENT, ILLINOIS CONSUMER COUNCIL

Senator McClellan. All right, Mr. Trigona, we welcome you this morning. Do you have a prepared statement?

Mr. Martin-Trigona. Mr. Chairman, I will have one later today.

I do not have it with me this morning.

Senator McClellan. Very well. Would you like to supply it and let it be printed in the record in full?

Mr. Martin-Trigona. Yes.

Senator McClellan. Your statement will be received and appropriately placed in the record. You may proceed, if you would like to comment.

Mr. Martin-Trigona. I would like to make a brief summary if I may, and say that I concur with Congressman Mikva that there has been a tremendous volume of discussion, and I think that we can just highlight some of the points that I think need additional highlighting in bringing them out. I would like to start out, of course, by thanking the chairman of the subcommittee for allowing me to testify today on behalf of the Illinois Consumer Council.

Senator McClellan. Would you like to give us a little background

and identify yourself for the record?

Mr. Martin-Trigona. I would be happy to. I am the president of the Illinois Consumer Council. This is a not-for-profit corporation organized to assist consumers. Since its inception in 1969, one of the initial issues for which it has been concerned has been the desire to see initially, of course, in Illinois a compensation system for victims of crime.

I think what would best assist the subcommittee in this respect is some prepared questions and answers by the Illinois Consumer Council which are very definitive and explanatory as to all of our activities and the scope of our work.

Senator McClellan. You have prepared some questions and the

answers thereto?

Mr. Martin-Trigona. Yes.

Senator McClellan. That you would like to submit for the record? Mr. Martin-Trigona. I would, sir, and ask after my testimony that these be inserted at an appropriate location in the record, so that anyone who is interested in the Consumer Council further can refer to these. They are quite detailed, and we have prepared them, for example, for responding to inquiries from the public and the legislators, and I think they would be quite useful and would ask that you insert them in the record.

Senator McClellan. Very well, the questions and answers to which

you have referred may be printed in the record.

(The questions and answers referred to follow:)

QUESTIONS AND ANSWERS ABOUT THE ILLINOIS CONSUMER COUNCIL

1. What is the Illinois Consumer Council?

The Illinois Consumer Council is a chartered not for profit corporation organized under the laws of the State of Illinois.

2. What does the Council hope to accomplish?

The Council will try to act as a "peoples' lobby" in state and local government, and try to perform analogous functions to those performed by private lobbies for private interests, mobilizing public concern on important issues and also solving consumer complaint problems.

3. How will the Council move toward its goals?

In several areas of possible legislation, the Council will work with concerned legislators. It may hold public hearings across the state to gauge public opinion and interest on issues. It will try to work at all levels of the state legislative process including helping to sponsor legislation, hearings, contact with legislators and liaison with interested citizens.

4. What is the Consumer Complaint Service and how can citizens make use

of it?

The Consumer Complaint Service will seek to help consumers with their problems. The service will act on *written* complaints to the Council, 507 W. Elm Street, Urbana, Illinois 61801 and will seek to solve consumer problems or refer them to the appropriate government or private agencies for assistance. There will be no charge for using the Consumer Complaint Service. The Cocuncil may also publish a periodic report on complaints received and how they were settled. The Service will be open to all residents of Illinois who need help with consumer problems.

5. Will the Council get into the "financial disclosure" debate?

Probably not. There are enough adherents on both sides of the issue to insure that all points pro and con are brought forth. In chosing issues the Council will try to focus on important areas which have not received a great deal of public concern or which require new perspectives.

6. What does the Council see as its major issues initially?

We will try to work on three major issues: (1) enacting a system of state compensation for victims of crime; (2) a "Higher Education Bill of Rights" guaranteeing financing for all who wish higher education (public and private); enactment of non-fault automobile insurance legislation.

7. What are the Council's membership policies?

Any interested Illinois resident may join the Council. Annual membership dues will be \$5.00 regular and \$2.00 student membership, both available, with further information, from 507 W. Elm Street, Urbana, Illinois 61801, tel. # (217) 367-1668.

8. Is there really a consumer point of view on most matters?

We feel there is. Many people who are not involved in partisan politics lack ready access to the "system." Because of the many demands made on them, legislators tend to work on issues which are pressed to their attention. All citizens clearly have an interest, however, in providing compensation for innocent victims of crime, since the possibility of being a victim is steadily rising. Similarly, on the question of automobile insurance, the position of the insurance companies is known—vide the skyrocketing rates—but the many who are denied insurance or can only get it at excessive rates are not well organized; in addition, the present system of accident compensation is an inefficient one. Financing costs for higher education have risen with the cost of living, outstripping the ability of the average student and his family to meet these increased costs; we need a guaranteed "Higher Education Bill of Rights" to insure that all who want to attend institutions of higher education can do so without financial worry and at minimum cost to the taxpayer.

9. What about partisanship?

The Council will not support or oppose partisan candidates, and it will try to stay away from issues where there is a partisan cleavage based on clearly defined party positions. People involved in partisan politics, however, will not be excluded from participation in Council efforts. Indeed, at some point in the future the Council hopes to spotlight legislators and public officials who are

particularly responsive to the consumer point of view. The Council will be bipartisan and nonpartisan as the case may be-

10. Where can citizens get more information about the Council?

Temporary offices and telephone service are located at 507 W. Elm Street, Urbana, Illinois 61820, tel. # (217) 367–1668. Visitors and media are welcome with advance appointments, but specific "consumer complaints" for council action must be in writing. Any group may make use of the Council by asking for advice or assistance, speakers, or other information; all queries are welcomed.

11. How will the Council be different from other consumer groups?

We hope to move into the vanguard of consumer action in Illinois. We feel that established groups have not been active enough in setting forth the consumer position and in moving into new areas of concern. We are going to try to move into active involvement with new issues, and new solutions to old problems. Wherever possible, we will work with established groups, and where necessary we will move beyond their positions. Our overall posture will be independent and activist.

12. How does the Council view the current "state of the consumer"?

Poor. Governmental services are static or declining, while taxes are increasing. Old problems persist, while new ones are generated by expansion, congestion and growth. The citizen-consumer is being squeezed by increased demands for government services while there is a corresponding inability or unwillingness to provide them. We do not pretend to have an independent capacity to solve any of these problems, but we are going to develop solutions, present them, and try to see that they receive the public support (and awareness) necessary for enactment; at the same time, we will provide an additional access point for consumer complaints and information. At this point we are still working out plans and procedures, and each issue may require a different approach; overall, we are committed to solving our current problems, making private life viable and working to mobilize the consumer point of view as a meaningful lobbying force.

13. Who originally developed the Council concept for Illinois?

The council has grown from an original suggestion by an Illinois editorial writer to Anthony R. Martin-Trigona and been in development since last September. In a real sense, the concept is still an experimental one—can citizens really band together to assert their interests as effectively as private forces lobby for their own—and we are going to continue to experiment with the council. If current cries for local action and initiative are to have any currency, people are going to have to organize to achieve their goals, or even to agree on what those goals should be. It is very much an openended situation at this time.

14. Is the Council part of any national plan?

The Council has been compared to the Common Cause based in Washington, D.C. In theory, the groups are similar; in practice they will be very different. The Council will be a local Illinois effort primarily concerned with Illinois problems. Common Cause is concentrating on national issues (e.g. seniority system in Congress) and when it has indicated an interest in involvement in state issues (as it recently has in the area of voting legislation) it has concentrated on issues which have national impact (again, e.g. voting reform legislation). Thus, in effect the groups will not overlap, although some issues (such as automobile insurance reform legislation) have now become state and national issues. The Council will try to restrict itself to helping Illinois consumers and working with Illinois governmental agencies.

Mr. Martin-Trigona. Thank you, Senator. With respect to title I, the compensation assistance to victims of crime, I would like to begin by saying that one of the underpinnings of the Federal system has always been the theory that the States can serve as social laboratories, that they can be used as areas in which experimental concepts may be initiated. And I think that the concept of criminal victim compensation has now been established through this laboratory process, both in New York and in California, and in other States, and, therefore, there is clearly a basis on the basis of the results heretofore to establish a system both in the Federal areas and to assist the States themselves. Clearly, the approach which the committee is taking, the model statute

approach, which would set up a 50-State basis is a preferable one, so that if this, in fact, so broadly based widespread system of compensation is to be enacted, all of the citizens of all of the 50 States can benefit from it. For this reason I think the approach of the subcommittee in setting up the grants and in setting up a model system and a model ap-

proach is a very good one.

I think the real difference today on the part of the States in implementing this legislation or similar types of legislation has been in the idea of costs, the unknown costs, and the question of where it is going to be paid from. I know in Illinois that the legislation Congressman Mikva suggested has been reintroduced in each session. One of the arguments made for deferral of it has been the idea that we might be entering into an open-ended commitment, and in this respect, clearly, that it will have a cost both in the urban areas where most of our current violent crime occurs and where our compensable crime is and also in the rural areas which have seen an alarming increase in crime in recent years. So, I think that by setting up this Federal system and system of Federal and State cooperation, the risk which the States have heretofore used as a basis for not compensating victims will be largely minimized and eliminated, and there will be a real incentive.

I think, finally, that there ought to be a caveat attached to this statute, and that involves the fact that, as with any new statute or any new program, by its very nature it is going to be experimental, and the legislative limits of it ought to be narrowly defined in many ways, as Congressman Mikva suggested. However, I think, really, we ought to leave some flexibility so the need can be met. I think experience has shown that even the best intended legislation often leaves loopholes and leaves dark spots and vague areas which can best be met by a regula-

tory agency.

I think Senator Hruska raised the question of what kind of Federal bureaucracy would be needed to administer the statute. I would hope it would not be very large and, for example, as in the entire communications industry involving billions of dollars and thousands of licenses in the various States of the Union, it involves less than 2,000 employees to administer the relatively small bureau in the major cities. I would hope something along these lines would be the target so that we would not have a bureaucracy at all, and the fear about thousands and tens of thousands of workers in the bureaucracy would not be realized.

I would just like to say in closing that just this title I establishes a covenant between society and the innocent victim of crime, and I think that the parallel justifications and reasons for enactment can be shown with title II, which essentially sets up the same kind of a covenant with

the law enforcement and public safety officers.

Really my own feeling as a private citizen is that these people, by and large, are the forgotten citizens. We expect a policeman or a fireman when we want him, and we expect him to be there instantaneously. But, once the fire has been put out, or the service rendered, we often forget about them, except occasionally when we receive a traffic ticket for a traffic offense, or maybe in instances of murder, such as the murder of Officer Tippett.

I think this is a reasonable approach to compensate the average citizen, and I think there is a real need and a basis to compensate the

public safety officers who are in the vanguard, the point men, so to

speak, in the whole process.

And I would close by saying that I hope they will both be enacted together, and that as a package they really make some dent. We certainly are never going to get rid of crime. It may be even that crime is a byproduct of our complex, modern society with all of its tension, and we can do all that is possible to try to eradicate crime, but even while we are doing this we have to keep some perspective and worry about the people who are victims.

With this thought in mind, I think this is excellent legislation, and

we are wholeheartedly behind it—and I thank you.

And as soon as my full statement is ready, I will get it to the committee, and I apologize for not having it done at this time, but I did not get back until Saturday morning from Switzerland, and at which time I found the letter which said I was to be here today, so I think that I have done well just to make it here today, in any event.

I thank you.

Senator McClellan. Well, you certainly have, and we thank you and appreciate it. Your prepared statement will be received and we thank you for being here this morning.

(The statement follows:)

STATEMENT OF ANTHONY R. MARTIN-TRIGONA, ILLINOIS CONSUMER COUNCIL, ON S. 2994, MONDAY, MARCH 27, 1972

Mr. Chairman and members of the committee, I would like to begin my testimony by thanking the Committee for this opportunity to appear before you today in support of S. 2994, the "Victims of Crime Act of 1972."

It is indeed both an honor and a privilege to appear before you today in support of this fine legislation which would compensate innocent victims of crime and also provide much needed financial security for public safety officers.

I appear before you today both as President of the Illinois Consumer Council, and as an individual citizen concerned about the serious crime problem in America. The Illinois Consumer Council is a statewide not for profit consumer organization. Since its inception, the Illinois Consumer Council has sought enactment of compensation legislation in Illinois. In order to assist the committee and provide more information about the Council, and at the same time to expedite my testimony, I would ask that a series of "Questions and Answers About the Illinois Consumer Council" be included with my testimony. I feel these Questions and Answers fully explain the role of the Council and provide some insight into our activity and interest in the subject matter legislation of these hearings.

THE STATES AS SOCIAL LABORATORIES

One of the arguments which has been advanced in favor of our bifurcated constitutional system of a federal and state system of government is that states can often function as social laboratories, trying out new ideas and testing concepts before they become necessary on a nationwide basis. Even with the torrent of new federal legislation states still retain considerable initiative in picking and choosing where to direct their legislative and financial resources.

Several states have already enacted compensation systems for victims of crime. Subject to some limitations, these programs have been successful. Even more importantly, these pilot programs have clearly established the need for a

broadly based federal system of compensation.

These state statutes have been grounded in the realization that while we may take all possible efforts to combat crime, we will never be able to do away with crime, and there will always be innocent victims who suffer both physically and financially. Indeed, crime may be an inevitable by-product of a modern, complex, competitive society. We cannot say for sure, but we can be sure that many innocent victims of crime suffer each and every day. Something must be done to alleviate this suffering.

A MODEL STATUTE IS PREFERABLE

Once we moved beyond the scope of social laboratories and experimentation a model statute approach is preferable to variegated, piecemeal remedies varying greatly from state to state.

Surely, if an innocent victim of crime is to be compensated for his loss in California, or Georgia, some similar compensation ought to be available in Mon-

tana or Massachusetts.

I think we can agree that uniformity, if not conformity, is a reasonable goal in seeking to provide solutions to our crime problem and its aftermath. The Congress has already noted that crime is a national problem, and it is and has developed programs and remedies to assist states in combating this threat to a peaceful and orderly society. Thus, it requires no great leap of logic, or constitutional principle, to assume that it would be proper to enact a federal/state system of compensation involving victims of crime.

The approach taken in this statute is the preferred one, allowing the states some latitude, and avoiding the development of a massive federal bureaucracy to administer the program. As I understand the statute, the states would administer the local compensation systems and the role of the federal government

would be limited to compliance examination.

The Federal Communications Commission administers the entire communications spectrum and thousands of commercial licenses in every state with only a small staff. Hopefully, in like fashion, the compensation program could be administered with only modest and economical supervisory personnel.

THE PROPOSED STATUTE MEETS THE PROBLEM

If finding solutions to eliminate or mitigate crime are a national priority, it can be asked why the states have not previously been more generous in enacting components are proposed to programs.

pensation programs.

I think the answer lies in the fact that it has been difficult to ascertain what financial costs would be generated by these programs. Even the successful New York program has been plagued by the realization that some palpably worthy potential recipients of assistance have been precluded from recovery because of

the strict statutory limitations on financial awards.

The states are already stretched to the absolute limits of their revenue producing capacity. Quite logically, they have avoided undertaking costly new programs. In this respect it is particularly important to note there is no organized lobby of support for compensation. Victims of crime form no identifiable group; they hold no meetings; they have no Washington or state lobbyists. Indeed, many victims are even reluctant to identify themselves as victims of crime. Thus, in the absence of a chorus of voices demanding a compensation program, it is not unusual that such proposals have not been priority matters for the legislatures that have considered them. A fortiori it is to the credit of this Committee that the Committee has undertaken to meet a need even if the eventual beneficiaries are unknown, and even if there is no organized block of support pushing enactment.

By setting up a matching grant system of compensating states, the proposed law would meet the fiscal objection of state legislatures. I think in fairly short order all states would enact qualified programs to take advantage of the pro-

gram and to aid their victims of crime.

What we are in effect creating is a program of social insurance. It is not, like social security, made available to all irrespective of need, and it is not, like welfare, made available only to the destitute or near-destitute. We are recognizing that there is a vast middle ground in the population that may be a victim of crime, and that will suffer proportionately greater losses. In this respect, I would hope the legislative intent is clearly established that people need not be paupers to qualify for aid, and they need not destitute themselves to receive aid. If a working man or woman should be a victim of crime, they should not have to sell their house and drain their bank book just to qualify for aid. Otherwise, we may just be demoralizing citizens and creating new candidates for the welfare system. What we need to create is a program of, in effect, preventive maintenance, so that people can keep or stay close to their standard of living with some help from this program. We are trying to avoid and eliminate, I hope, finger pointing and opprobrium when a citizen is a victim of crime.

In this respect it is important to note, as the committee already has, that there is a covenant among members of society, a mutual aid pact if you will, that

is a sound basis for providing aid to victims of crime. Indeed, we may yet, or may have reached, the point where greater expenditures on crime fighting will yield diminishing returns. Looked at in a harshly realistic economic light, there may come a point where it is cheaper to compensate the victims of crime than it is to pay billions more to stop increasingly marginal amounts of crime (i.e. marginal amounts of the larger mass). I do not know if we have reached the point of diminishing returns with respect to law enforcement expenditures, but I do know that we have clearly reached the point where more emphasis needs to be paid to helping the victims of crime.

Today the victim is often the forgotten cog in the machine. The criminal may be brought to justice, but that is scant solace for the victim who may be maimed physically and financially ruined by loss of income and medical expenses. Obviously no amount of money would compensate for the trauma of being a victim of a violent crime, but this measure would at least reach up to the point of removing the catastrophic financial consequences of being an innocent victim

of crime.

TITLES I AND II ARE CLOSELY RELATED

There is a close correlation between the relief proposed in Titles I and II of the proposed law.

In Title I we seek to deal with the innocent victim of crime and his financial

loss

In Title II we seek to deal with the risks and dangers of being a public safety

officer and to compenstate public safety officers for doing their jobs.

Today, law enforcement and public safety officers are among the forgotten people of society. This should not be so. But too often, we want instant response and service from a police or fire department, but we altogether too quickly forget about the welfare of public safety officers and indeed, at budgetary time, we often look first to the fire or police budgets as ripe for pruning. This is also

Today public safety officers have among the most dangerous jobs of anyone in America; they should be compensated accordingly. Public safety officers perform functions vital to a free and orderly society. At the epicenter of a civilized society is an appreciation for the necessity of police and fire protection. Property rights mean little if they can be abridged by a criminal or a fire; more importantly, human rights mean little if they are not backed up and protected by a system of public safety protection. Thus, all Americans have a vital interest in the efficient and effective functioning of our public safety systems. The key to these systems is the dedicated men who, at considerable risk, undertake to serve the public and vindicate the public interest in law enforcement and protection of lives and property.

Increasingly of late police officers and firemen have been subjected to unnecessary, criminal, insane attacks, while they were acting in the performance of their duties. Consequently, the risks attendant to being a public safety officer have increased significantly; but the rewards have remained relatively static.

No law, no Congress, no one can ever compensate a family for the loss of a father, and especially so when the loss may come as the result of a senseless

attack on a public safety officer while he was in the line of duty.

But we can and must undertake to compensate these families to the extent we can, so that when tragedy does strike, families of public safety officers will not be candidates for welfare or other forms of public assistance. The proposed law begins to compensate public safety officers for their risks and for the selfless performance of their duties. This proposal is a good step in the right direction. Hopefully, before more compensation programs are needed the tides of violence will recede and the risks will accordingly diminish. But if they do not, other remedial legislation will be needed to insure that firemen and policemen are protected and that everyone who benefits from their labors—which is everyone in our country—chips in to pay the costs of compensating them for their labors and their risks.

In closing, let me just say that just as we seek to help victims of crime, so too we must seek to assist public safety officers. Policemen and firemen are truly the point men in the war against crime and in defense of society. It is easy for a Senator, and even a consumer advocate, to speak out against crime; but policemen and, to an increasing extent, firemen are the ones who actually are out on the front lines doing the fighting and taking the risks. It is only reasonable and honorable that we recognize their risks and act to insure them

and compensate them accordingly.

Therefore, although there may be some minor questions I might raise, I am in full and complete sympathy with the scope and purpose of this legislation, and I support the proposals in their entirety and ask their speedy enactment. Thank you again for the opportunity to appear and testify before the Committee.

Senator McClellan. Call the next witness, please. Mr. Blakey. Prof. Stephen Schafer, please.

STATEMENT OF PROF. STEPHEN SCHAFER, DEPARTMENT OF SO-CIOLOGY AND CRIMINOLOGY, NORTHEASTERN UNIVERSITY, BOSTON, MASS.

Senator McClellan. All right, professor, will you identify your-

self for the record, please, sir?

Mr. Schafer. My name is Stephen Schafer, and I am teaching at Northeastern University, and I am interested and have been in victim compensation for about 15 years actively, and well before, though not so very actively in my native country.

Senator McClellan. I note you have a prepared statement. Would you like to read it or would you prefer to just insert it in the record

in full and highlight it?

Mr. Schafer. I would like, with your permission, just to make a

brief summary of my prepared statement.

Senator McClellan. Very well; we will let your prepared statement be printed in the record in full at this point, and you may highlight it or summarize it and emphasize it.

(The statement follows:)

STATEMENT OF STEPHEN SCHAFER

Hon. Senators: (1) Before taking the liberty of offering a few brief comments on the bill S. 2994, the "Victims of Crime Act of 1972," may I indicate, as desired, the background of my interest in compensation and restitution to victims of crime, and, in general, in the patterns of criminal-victim relationships, what is somewhat popularly called "victimology." I have become interested in victim compensation in the late thirties, probably influenced by the Swiss Penal Code of 1937, when I made some efforts in Hungary in order to make the idea of victim compensation accepted as a concept different from that of the ordinary damages. In 1958, as a refugee from my native country, in England the Home Office has asked me to do a basic research on this topic that has been announced in the Home Secretary's White Paper, "Penal Practice in a Changing Society," presented to the English Parliament in 1959. In 1960 my book on "Restitution to Victims of Crime" has been published in England, as far as I understand the first hard-cover book on this subject ever published anywhere in the world. I learned from the Government of New Zealand that my book has been used in developing their victim compensation system. Between 1960 and 1968 I published a number of articles and presented papers to professional conventions on the problems of the victim. In 1968, already in this country, my book on "The Victim and His Criminal" has been published in New York, and in 1970 the second enlarged edition of my "Compensation and Restitution to Victims of Crime." My next book on "The Victim of Crime" is in print.

In 1963, funded by the United States Department of Health, Education, and Welfare, I made a research on criminal-victim relationships in crimes with violence; another in 1970 on the victims of juvenile delinquents; and currently I am working on two more: one on the impact of social change on criminal-victim relationships, and another on the operation of the victim compensation system in the Commonwealth of Massachusetts. Shortly, I will start working on a research on the patterns of victim-police relationships. In 1970, in Madrid. Spain, at the International Criminological Congress I was privileged to chair the session devoted to the problems of the victim. For the First International Congress on Victimology, to be held in 1973 in Jerusalem, Israel, I have been invited to be a member of the Steering Committee, also as one of the four major Rapporteurs, and I will be proud to report the successful passing of this climactic

American legal measure now under discussion.

(2) At this stage of the Bill, and in our time, I suggest, it is no longer necessary to elaborate on the urgent and burning need to make the cause of victim compensation on Federal level a living and functioning reality and to correct one of the most important yet most neglected segments of our criminal justice system. The Bill as I heard on any of those on the Subcommittee testify, may call for some modifications or additions for making it stronger or more extensive; however, may I respectfully suggest, for this moment and at a state of affairs where Federally guided victim compensation is totally missing from our system of criminal law, the most important issue is to satisfy a century old demand—in one way or another, and changes or extensions can be introduced

later on, after experiences will direct us to improvements.

Should this bill pass; and I hope it will, it is essential that this compensation system should receive broad publicity. As far as I experienced, for example in the Commonwealth of Massachusetts, only a fractional proportion of people know that victim compensation is available. The police and courts call the attention of the victims to the possibility of compensation only in exceptional cases or if an attorney is representing the victim. It may be characteristic that, according to my information, since July 1, 1968, to date only 317 victims applied for compensation, of them only 83 cases have been disposed of the courts, and only some \$60,000.00 has been paid in total—as opposed to the number of violent crimes amounting in this period to over 30,000. A well-built up public knowledge about a Federal compensation system, and the obligation of the law enforcement agencies and courts to inform the victims about their rights, could greatly help the successful operation of the proposed Board and it would substantially assist and justify the belief that the police is for the help and protection of all members of this society and a friend of the victims.

(4) One of the fundamental questions of the Bill is that who should be compensated and to what extent; in other words, are all victims really "victims" whose claim for recovery deserves respect and satisfaction, and in addition to the direct target of the criminal act who else should be regarded as a victim

for the purpose of considering his compensation.

May I respectfully suggest, not only those are the victims to be compensated who are the direct targets of criminals, and permit me to call attention to whom I tentatively call the "accidental" victim. The so-called "Good Samaritans", who voluntarily give their help to those who are victimized or exposed to the victimization risk, and others (like police officers) who help as a part of their duties could be so involved in the process of the offender's lawbreaking act that they may suffer from crime even more than the legally categorized victims. In my views, the Bill should extend its care also to these totally innocent "victims" and make them entitled for compensation. By doing so, the law will not only make justice to those who contribute to maintaining law and order, but also, the law will substantially encourage the altruistic community sentiments and will promote the public's inspiring confidence in the members of the law enforcement agencies.

Whether or not the hardship or need of those who will be eligible for compensation should be considered, does not seem to me a major issue so long as compensation to victims of crime will not be confused with some kind of welfare assistance. Personally, if budget permits it, I would be for eliminating from the Bill the stratification of victims according to their financial circumstances. The "hardship" or "need" principle, seems to conflict with our general principle of equality where, for example, in our care for the senior citizens the same social security is paid to the aged regardless whether the person is a

multimillionaire industrialist or a pennyless streetwalker.

(5) Finally, may I respectfully suggest connecting compensation to victims of crime with a reforming idea of our correctional system. In our time, when it is becoming increasingly clear that our prisions and similar institutions fail primarily because of the absence of a uniform and efficient treatment method, in my opinion every opportunity has to be grasped for trying out promising experiments in correcting the lawbreaker. There is something very sad in the disparity between our passion for treatment and our inability to employ it effect-

ively. I take the liberty of recommending the introduction of "punitive restitution", or better, "correctional compensation" to the victims of crime that may

be incorporated in this Bill.

The offender should understand that he injured not only the state and law and order, but also the victim; in fact primarily the victim and through this injury the abstract values of society. The institution of compensation is able not only within limits to make good the injury or loss of the victim, but, at the same time, to help the task of correction. Compensation cannot undo the wrong, it will only appease the injury, but it could develop a real educative value for the offender. In many cases payment to the injured party will have a stronger inner punishment value than the payment to the neutral state.

This kind of compensation is something an offender does, not something done for him or to him, and as it requires effort on his part, it may be especially useful in strengthening his feeling of responsibility. George del Vecchio proposed that the victim should be compensated from wages for the offender's labor, and a similar suggestion came from Carlo Waeckerling who contended that the "noble way" to care for the victim is to make it possible for the offender to fulfill his

obligation by way of the income of his free work.

The harm, injury or other disadvantage caused by the criminal to his victim, is not an entity with an independent existence, which can be neatly classified, labelled and assessed in an amount of dollars, although it often gives this misleading impression. These crime-caused disadvantages are reactions, sometimes complicated and little understood, which are developed owing to the victim's interrelationship with the criminal. In this context the harm or injury is an abstraction, and the criminal and his victim are the concrete realities. Thus, compensation should be provided with the correctional character, without disrupting the relationship between the criminal and his victim, and to require the offender to satisfy the victim should be within the rights and duties of the Board. Naturally, the ultimate and essential goal of state compensation would be to guarantee that the victim gets his restitution as fast as possible with the least bureaucratic difficulties, without waiting to the offender's performance.

This is what our modern understanding of the criminal-victim relationship demands. Correctional restriction is the type of compensation that holds the promise of both restitution to victims of crime and implementation of the reforma-

tive and corrective goals of the criminal law.

Mr. Schafer. Thank you, Mr. Chairman.

At this state of the bill, in our time, I suggest, it is no longer necessary to elaborate on the urgent and burning need to make the cause of victim compensation on Federal level a living and functioning reality and to correct one of the most important yet most neglected segments of our criminal justice system.

The bill, as I heard many of those on the subcommittee testify, may call for some modifications or additions for making it stronger or

more extensive.

However, may I respectfully suggest, for this moment and at a state of affairs where federally guided victim compensation is totally missing from our system of criminal law, the most important issue is to satisfy a century-old demand—in one way or another, and changes or extensions can be introduced later on, after experiences will direct us to improvements.

Should this bill be passed, and I hope it will, it is essential that this compensation system should receive broad publicity. As far as I experienced, for example in the Commonwealth of Massachusetts, only a fractional proportion of people know that victim compensation is

available

The police and courts call the attention of the victims to the possibility of compensation only in exceptional cases or if an attorney is representing the victim.

It may be characteristic that, according to my information, since July 1, 1968, to date only 317 victims applied for compensation, of them only 83 cases have been disposed of by the courts, and only some \$60,000 has been paid in total—as opposed to the number of violent

crimes amounting in this period to over 30,000.

A well built up public knowledge about a Federal compensation system, and the obligation of the law enforcement agencies and courts to inform the victims about their rights, could greatly help the successful operation of the proposed board and it would substantially assist and justify the belief that the police are for the help and protection of all members of this society and a friend of the victims.

One of the fundamental questions of the bill is that who should be compensated and to what extent; in other words, are all victims really victims whose claim for recovery deserves respect and satisfaction, and in addition to the direct target of the criminal act who else should be regarded as a victim for the purpose of considering his compensation.

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In my views, the bill should extend its care also to these totally

innocent victims and make them entitled for compensation.

By doing so, the law will not only make justice to those who contribute to maintaining law and order, but also, the law will substantially encourage the atruistic community sentiments and will promote the public's inspiring confidence in the members of the law enforce-

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streetsweeper.

Finally, may I respectfully suggest connecting compensation to victims of crime with a reforming idea of our correctional system.

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There is something very sad in the disparity between our passion for treatment and our inability to employ it effectively. I take the liberty of recommending the introduction of punitive restitution, or better, correctional compensation to the victims of crime that may be incorporated in this bill.

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In this context the harm or injury is an abstraction, and the criminal and his victim are concrete realities. Thus, compensation should be provided with a correctional character, without disrupting the relationship between the criminal and his victim, and to require the offender to satisfy the victim should be within the rights and duties of the board.

Naturally, the ultimate and essential goal of State compensation would be the guarantee that the victim gets his restitution as fast as possible with the least bureaucratic difficulties, without waiting to the offender's performance.

Senator McClellan. Thank you very much, Prof. Schafer.

Senator Hruska, any questions? Senator Hruska. No, thank you.

Senator McClellan. I think you have prepared an excellent statement, and we will certainly give study to your comments and your recommendations. Thank you very much.

Call the next witness.

Mr. Blakey. Professor Rothstein, please.

STATEMENT OF PROF. PAUL F. ROTHSTEIN, GEORGETOWN UNIVERSITY LAW CENTER, WASHINGTON, D.C.

Senator Hruska (presiding). Professor, have you submitted a statement to the committee, a prepared statement?

Mr. Rothstein, Yes, I have, Senator, I would like that it be printed in the record.

(The statement follows:)

STATEMENT OF PROFESSOR PAUL F. ROTHSTEIN, GEORGETOWN UNIVERSITY LAW CENTER, WASHINGTON, D.C.

Northwestern University, LL.B., 1961; B.S., 1958; Oxford University, as Fulbright Scholar, 1961-63; Ed.-in-Chief, Northwestern University Law Review 1960-61.

Consultant: Commissioners on Uniform State Law (criminal injuries compensation): International Conference on Compensation of Innocent Victims of Violent Crime; United States Department of the Treasury.

Member, American Bar Association; American Bar Association Section on Insurance, Negligence, and Compensation Law.

Litigation specialist, Surrey, Karasik & Morse, Wash., D.C., New York, Paris,

Beirut (of counsel after 1971).

Member, Texas State Bar Committee for the Revision of the Texas Penal Code, 1965-67. Co-Director, University of Texas-United States Court of Appeals

for the Fifth Circuit Appellate Program, 1965-67.

Author, Evidence in a Nutshell, West Publ. Co. 1970; State Compensation for Criminally Inflicted Injuries, 44 Tex. L. Rev. 38 (1965) & articles included in American Bar Association Journal, American Journal of Comparative Law, International and Comparative Law Quarterly, University of Texas Law Review, Journal of Legal Education, Northwestern University Law Review, New York Law Journal, Southwestern Social Science Quarterly, Law Library Journal, various other publications. Speaking engagements in criminal injuries compensation have included testimony before the Criminal Injury Committee of the Massachusetts Legislature (precedent to adoption of the Massachusetts Compensation Act). Most recently Prof. Rothstein has appeared on station WMAL to promulgate public information about criminal injuries compensation programs.

Visiting Professor, Guest Lecturer, University of Wales (1962), University of Florida (1964), and Boston College (1967). Instructor, University of Michigan Law School, 1963-64. Full time faculty, University of Texas Law School, 1964-67.

Admitted to Practice: United States Court of Appeals for the Fifth Circuit; United States District Court for the Western District of Texas: Federal and Local Courts for the District of Columbia; Illinois State Courts.

Other listings: American Council of Learned Societies, Directory of American

Scholars; Dictionary of International Biography; Martindale-Hubbell Law Directory; Association of American Law Schools, Directory of Law Teachers.

INTRODUCTORY NOTE

I strongly endorse the crime compensation plan set forth in Title I of S. 2994, and would like to commend the Chairman of the Subcommittee on Criminal Laws and Procedures for his bold leadership on behalf of this proposed legislation.

Having conveyed my enthusiasm for the concept embodied in Title I, I take this opportunity to present some constructive legal commentary on various aspects of this measure.

TECHNICAL OBSERVATIONS

There are a number of essential technical aspects of Title I of S. 2994 which should be brought to the Subcommittee's attention. These may be summarized in turn as follows.

1. In Section 450(4), "dependent" is defined to include one who is partially dependent. A good argument could be made that a person who received occasional payments from the victim was partially dependent on the victim. E.g., an emancipated son (of the victim) who has a job but doesn't earn quite enough, and receives occasional help from the father (i.e., the victim). I don't think you want to compensate such a person, do you? [While you elsewhere allow any "persons who suffer pecuniary loss" to recover, though they are not victims or dependents, you limit the definition of pecuniary loss to medical expenses and the like, so such a person as this son would not be embraced by those provisions]. Also, note that Section 459 has a category of persons labelled thus: "A person who was dependent on the victim." The definition of "dependent" up front in 450(4), which includes partial dependents, would not apply here because that definition defines the noun "a dependent," not the adjective "dependent" as used in the phrase "a person who is dependent". Thus, here it would seem the person has to be entirely dependent. I should think your definition of dependent should be made to apply to this phrase, too, whatever definition you adopt.

Perhaps it might be wise to cast an eye toward the Internal Revenue Code definition of "dependent" (§ 152, I.R.C. [1954] as a possible solution to this

drafting problem.

2. Section 450(10)(A)(4) looks like the phrase "because of a disability resulting from the personal injury" applies only to (4) and not to (1), (2), and (3), which I don't think is your intent. If it is your intent, that would mean that, while losses of future earnings must be attributable to a disability resulting from the personal injury, loss of past earnings, hospital expenses, and medical expense, need not.

3. Section 450(10)(B) should be clarified to indicate explicitly an allowance for payment for loss of medical expenses in cases of death, as well as in cases of personal injury. I feel certain that this is your intent but believe the draft language is less than adequate to guarantee this purpose.

4. Section 450(13) should similarly be clarified to authorize payment to a good samaritan who prevents a crime or apprehends a criminal on his own, not while

assisting a law enforcement officer, if this is your intent.

Another problem with Section 450 (13) is this: while your definition of "victim" here includes persons helping enforcement officers to prevent crimes or apprehend criminals, your basic provisions that provide for compensation (457, 458) omit these people who aid enforcement officers! To illustrate: Let us suppose that a person (we'll call him "the citizen") gets injured assisting an officer to arrest a burglar or prevent a burglary (or an assault or arson). It turns out that no burglary (or assault or arson) was actually taking place at all, or even attempted, although to all reasonable appearances it looked like one was. The citizen's effort to prevent or arrest is clearly lawful and laudable. Further, he was helping at the officer's request.

While this "helper" is within the definition of "victim" in § 450 (13), he cannot

be compensated under your bill for the following reasons:

§ 457 (a) requires that the injured person be "injured or killed by a criminal act or omission". There was no actual criminal act or omission in my example. More importantly, on the same point, 457 (d) flatly states "No order [for compensation] may be made unless the Board . . . finds that (1) such an act or omission [i.e., a criminal act or omission] did occur; and (2) the injury or death was proximately caused by such act or omission." No such criminal act or omission actually occurred in my example. Even more importantly, on the same point, § 458 (a) says there is compensation for loss from personal injury or death "result[ing] from crimes in the following categories," listing categories including attempts. In my example no crime or attempt actually occurred.

Arguably Sec. 459 could be used to compensate these people, perhaps, but it is not clear. If the only provision relating to these people is 459, and 457 & 458 don't relate to them, then these people are freed of certain of the restrictions of 457 & 458 relating to territory where the act has to occur (457 (a) (1) & (2)); relating to what other persons in addition to the victim may get payment on behalf of an injury to the victim (457 (b)); relating to the effect of provocation or contributory behavior on the part of the victim (457 (c)); relating to the quantum of proof and necessary findings (457 (d)); relating to the lack of necessity for prosecution or conviction (457 (e)); and relating to the kinds of

crimes that must be involved (Sec. 458).

As to the last, you may wish to limit compensation of our "helper" to the situations where the kind of crime suspected was one of the enumerated crimes or

an attempt at one of them.

A final point with regard to Section 450(13) is that the phrase "as proximate cause of" must be changed to "as a proximate result of". It does not make sense as written.

5. Section 457 (c) quite properly provides that any provocation or other contributory behavior of the *victim* should be considered in determining the amount of the award. But, since the bill provides that others than the victim may be claimants (e.g., dependents and others suffering "pecuniary loss"), shouldn't their contributory behavior also be considered when they apply for compensation?

6. Section 457(d) presents a difficulty in that it seems to prescribe what elements must be found and supported by evidence, in order for there to be an award. But it sets forth only 2 elements (that the act or omission occurred, and that the injury or death proximately resulted therefrom). But I know

you intend that all the other elements mentioned throughout the bill must be found on the evidence before there will be an award: for example, to name just a few of such elements, financial hardship, lack of fault or provocation, the fact that the claimant is a dependent, the fact that pecuniary loss was caused

by the injury, the amount of the loss, etc. etc. etc.

There is also another problem with 457(d). It says that all that need be proved on the issue or "proximate cause" is that the injury or death was proximately caused by the criminal act. What about the pecuniary losses claimed by someone other than the victim, which you bill allows to be claimed. Don't these have to be caused, proximately caused, by the crime? Isn't it possible that they may be too remote to attribute to the crime? And, shouldn't the same proximate causal relation have to exist between the crime and any losses claimed by a dependent? For example, suppose that a part of a partial dependent's loss of support comes about because the victim was president of a corporation which paid the dependent dividends and the corporation folds because of the death of the victim president. This loss is not proximately caused by the crime and should

be considered too remote to be compensable. 7. Section 458(c) has certain objectionable consequences which I am sure are not intended. I realize that similar language is found in other acts; but it is equally objectionable there.1 My objection is, principally, the use of the word "deem." A person is deemed to have intent regardless of legal incapacity. This is susceptible of the interpretation that he is presumed (irrebuttably) to have the intent necessary to render the conduct criminal. Assuming this irrebuttable presumption applies only in the case of legally incapable people (insane persons, infants, intoxicated persons), they are treated much differently than legally capable persons, for as to legally capable persons, it is always a question of fact whether they had the intent. Thus, for legally incapable persons, acts which would be regarded as wholly accidental and unintentional if committed by legally incapable persons, because criminal intent is presumed. For example, an accident bump in the eye would be regarded as criminal if done by a normal person. Alternately, if the irrebuttable presumption of criminal intent applies to legally capable and legally incapable persons alike (which is a permissible reading of the draft), then many, many, wholly accidental non-criminal acts are made criminal by presuming criminal intent. The accidental bump in both cases would be regarded as criminal. I believe a better way to state what the draft is getting at is: "Insofar as intent is a factor in any criminal conduct, the existence of that intent shall not be precluded solely be-

8. Section 462 provides that "the Board may order the payment of compensation for pecuniary loss actually and necessarily incurred as a result of the personal injury or death of the victim." Don't you think the word "only" should be inserted before the word "for" in the above passage?

cause of insanity or other incompetence of the actor."

9. The last clause of Section 465(b) provides for a deduction from the award to the extent the award plus payments to the claimant from insurance, from claims against the offender, or from certain other sources exceeds the total amount of his actual damages (i.e., exceeds "the total compensable injuries suffered by the applicant as determined by the Board"). In determining "the total compensable injuries" for these purposes, is the Board to disregard pain and suffering? It doesn't say. Admittedly pain and suffering cannot be compensated for in any award given by the Board, but this is because of limitations on public funds. But shouldn't the party be able to get pain and suffering damages from the offender or his own insurance?

Example: A housewife who doesn't work loses an eye and arm from a crime. She has \$1,000 medical expenses. That is all the "pecuniary loss". A court of law would, let us suppose, award her \$30,000 (\$1,000 for medical expenses plus \$29,000 for the loss of her eye and arm, which is lumped under the heading pain and suffering). She gets \$1,000 from the Board (compensation for her "pecuniary loss") but nothing for the loss of the eye and limb ("pain and suffering"). As she has no job and never intended to work, she has no other pecuniary loss (loss of work, past, present, or future). (It is quite appropriate that so long as we are only talking about compensation from limited public funds, which we are, up

¹ The Commissioners on Uniform State Law changed similar wording in their draft model act in response to my suggestion. The new language is that suggested, infra. (See Appendix.)

to this point, she should get only the \$1,000). Suppose that in a suit against the offender, she has collected \$2,000. (Although the court awarded \$30,000 let's suppose the offender is insolvent and pays only \$2,000 and she cannot collect more from him). Suppose the Board cannot consider "pain and suffering" in computing her "total compensable injuries" under this deduction section, then her "total compensable injuries" are \$1,000. She has received \$3,000 from other sources. If she gets the award, she will receive a total of \$4,000 (nowhere near what the court of law would say are her full injuries: \$30,000). This deduction provision would require that no award be given; i.e., the excess she would get over her "total compensable injuries" ("total compensation injuries"=\$1,000) is \$3,000, and that must be subtracted from the award, which wipes it out. So she will get \$3,000, for the loss of an eye and a limb for the rest of her life, where a court would say the injury is worth \$30,000.

Additionally, Section 465(b) seems to provide only for deductions (from Board awards) of amounts received from insurance or from the offender prior to the Board award. (This is the natural meaning of the word "deduct" as used in the section). What if the party receives something from insurance or from the offender after the Board's award has been fully paid to him? Shouldn't he have to make restitution to the Board (or the Fund) to the same extent as he would if he received the money before the Board award? (If not, it's in his interest to delay receiving other amounts until after the Board award). As a practical matter, the Board will probably be faster acting than insurance companies or the courts, and most of the Board's awards (especially lump sum awards) will come before these other payments, so if there is no duty to make restitution to the Board (Fund) later when the non-Board payments are received, a source of replenishment for the Fund is being overlooked.

Also, why should one who receives non-Board payments after the Board award, be treated more favorably than one who is not so fortunate in timing and gets

the non-Board payments first?

10. Section 467(a) contains an internal inconsistency. Line 10 allows the attorney general to recover from the offender a maximum of the *whole* of compensation paid by the Board for the injury; yet the last sentence contemplates a situation where the attorney general recovers *more* than the Board paid, and says the excess shall be paid to the applicant.

Also, I would include in this section, some criteria for the court and attorney general to consider in deciding whether and how much recovery is in order. An award against the offender can produce a welfare problem as serious as the one the bill is seeking to avoid (e.g., if the offender has a dependent family).

The criteria should be this kind of consideration.

11. Section 468 is, I believe, too broad when it provides absolutely that the applicant's right to get damages in a court of law remains unaffected. Clearly, if the attorney general has recovered from the offender under § 467, this amount should be deducted from anything the victim can recover from the offender (i.e., it should be credited against the amount of the verdict entered against the offender because it is a sum the victim has already received from the Board; the victim should not receive it twice, nor should the offender have to pay it twice—once to the Attorney General, and once to the victim). You may even want to consider deducting the amount a victim has received by way of a Board award from the total amount of any verdict against the offender, in all cases, whether or not the Attorney General has proceeded against the offender under § 467. As above, this would be credited against the total verdict, as though paid, as distinct from amounts actually collected from the offender totalled less than his full damages as determined by the court, there would be no actual deduction.

Also, under 467(a) (Attorney General's suit), I should think you would want to provide for a credit based on any amounts the offender may have already paid

to the victim. This is not done under 467(a) as written.

PROCEDURE

1. Due process.—Read together, sections 457 (a), (b) and (d) leads to the undesirable result that, even if the Board finds that all the elements for a compensable claim are present (e.g., there is a crime, injury, financial hardship, claimant is a proper claimant and not guilty of any bad or contributory conduct,

etc., etc.), nevertheless the Board does not have to make an award, but can pick and choose which among such persons meeting all requirements, the Board wants to compensate, and which persons it does not want to compensate, in its discretion without any standards to guide it in selecting among equally worthy claimants who all meet all the requirements of the act.

I submit this is the basic flaw in the bill and raises a severe question, even a constitutional question, of due process and equal protection of the laws. The matter is compounded if no hearing is required by your bill for the compensation proceedings. § 457(d) says "with or without hearings"; but see 460(b) and 456(b), allowing applicant to appear and be heard and "cross examine such witnesses as may appear". If 457(d) allowing the Board to dispense with a hearing is confined to cases where the Board decides to grant the full claim, then the lack of hearing cannot be complained of by the applicant. If, however, his claim can be whittled down or denied without a hearing, that is bad; and further there are no standards governing when there is to be a hearing and when not under 457(d)—it seems to be discretionary. 460(b) and 456(b) are inadequate because the right to cross examine accorded there is only a right to cross examine "such witnesses as appear". Assuming this means any witness the Board hears on the matter, I can easily suppose a situation where a claimant is allowed to appear, with attorney, and present his claim fully (thus 460(b) is satisfied), no-one presents any witnesses or arguments against him (for there is no obligation to put on a case against him and no-one is specially charged to do that), no witness against him will be heard by the Board at any time in connection with the claim (thus, there is no-one for claimant to cross examine pursuant to 456(b)), and yet the Board decides, on the basis of documents and discussions among themselves, to deny or reduce the claim. Has claimant had an opportunity to confront arguments against him? Plainly not. There is no obligation to present any of the Board's arguments or evidence (other than witnesses) that cut against him.

This nonadversary procedure is particularly bad where the case against him if any, will be gathered by the Board, which is also the "impartial adjudicator".

Can we say, in counter-argument to this, that compensation under this bill is a matter of grace and thus can be dished out in any fashion government sees fit, since government didn't have to provide compensation at all? The answer is no. The Supreme Court has held countless times that once government decides to give a benefit, it must do it in a fair, even-handed manner, and in a way that comports with due process, even though government did not have to give the benefit at all.

2. Standards of Proof and Review.—In legal contemplation, in the parlance of trial lawyers, judges, and the law generally, the phrase "substantial evidence" has an accepted meaning. It means less than a preponderance of the evidence—it means "some evidence"—enough that a reasonable fact-finder could make up his mind—enough evidence that a reasonable fact finder could feel it amounted to a preponderance: Substantial Evidence" is thus the phrase used in connection appeals or motions for directed verdict, or judgments. Now, it says that even though the judge may not feel there is a preponderance of the evidence supporting the jury's verdict, nevertheless if the judge feels there is some evidence (substantial evidence) supporting it, the verdict will be upheld. The same notion applies where a court is reviewing fact-findings of administrative agencies. Thus, even though a reviewing judge feels the evidence makes the fact only 25% probable, but the fact-finder nevertheless found the fact to be true (which means the fact-finder found it to be at least 51% likely), nevertheless the fact-finder must be sustained because there is some (substantial) evidence to support it.

The way your section 457 (d) is phrased, it appears that the Board may make an award when it finds some substantial evidence that there was a crime and that it injured the claimant, even though that evidence only convinces the Board that it is only 25% likely that there was a crime that injured the claimant. I am sure you intended that the Board must find it to be more than 50% likely that these things occurred. The way to provide this, is to say they must find "by a preponderance of the evidence" that these things occurred. The "substantial evidence" standard should be reserved as the standard for appeal of Board findings to a court. There you want the findings made by the Board to be upheld even if the court feels the evidence makes it only 25% likely there was a crime that injured

the claimant. For the Board will have already found that it is more than 50% likely.

In short, there is a confusion in the section as presently written, between the standard for the initial fact findings (which should be "preponderance of the evidence" as in any ordinary civil or administrative trial) and the standard on appeal ("substantial evidence").

This proposal might be embodied within current section 463 which deals with review by a court.

MODE OF PAYMENT

I would like to say a word in support of the mode of payment which is a basic architectural feature of Title I of S. 2994 since it is crucial that crime compensation programs be properly administered by an independent board which is not burdened with additional responsibilities. I might add that this is the position of an overwhelming majority of the membership of the International Conference on Compensation of Victims of Crime.

The possibility of utilizing Workmen's Compensation Boards to administer a program such as is envisioned here, has been considered and rejected, in favor of

separate boards in virtually all of the states with similar schemes.

Workman's Compensation proceedings are generally intensely adversary proceedings. Workman's Compensation Boards are generally overworked and understaffed, and enmeshed in a complex of problems that are peculiar to the industrial injury context. The criminal injuries compensation area has many problems peculiar to it: e.g., the contributory behavior of the victim; whether the injuring act constituted a crime (fault is irrelevant under Workman's Compensation); whether the victim cooperated with the police; whether the victim is related in the prohibited way to the offender; public funds (workman's compensation is comprised of insurance paid by the industry); etc.

The problem of crime compensation deserves a particular focus from

Government.

STATE ASSISTANCE

Here, my only comment is that I believe it is a mistake to require as a pre-condition of federal aid, that the state programs be so closely similar to the federal bill. It forecloses the opportunity for a multiversity of approaches and forecloses attempts to constantly improve upon what has gone before, which is the glory of our federal system. For example, some jurisdictions have omitted financial hardship as a critierion. While I would not advocate this approach for the federal compensation proposal, I nevertheless feel a state ought to be able to take this view and still receive federal funds. It is a legitimate position for a state to feel that all of us, rich or poor equally, have been the victims (of the criminal, or perhaps of a state failure) when a crime befalls us; or that those who are more financially fortunate ought not to be penalized. Similarly, jurisdictions may not wish to limit compensation to the kinds of crimes you enumerate. For example, a criminal fraud (which would in no way come within your enumerated crimes) might result in injury or death, as, for example, in a recent California case where one who was not a medical doctor represented he could cure, which kept the patient from a true doctor, and thus caused death.

While it could be argued that the states are free to take these approaches under the present bill without federal funds, as a practical matter the disincentive of doing without federal funds for such operations forecloses the possibility.

I understand your problem, however. You do not want unlimited federal spending on tremendously broad state programs. I would suggest, however, that there are other ways to limit federal funds: total amount, percentage, etc.

Admittedly, there has to be a limit on the *kind* of plan that can qualify for federal funds. But any plan for the compensation of personal injury or death resulting from crimes, which comports with due process, and which possesses some rational safeguards against fraud, or fault of the applicant, ought to qualify, regardless of whether or what crimes are enumerated, or whether financial need is a criterion.

ADMINISTRATIVE PROCEDURE ACT

My views as to the desirability of applying the Administrative Procedure Act to the proposed compensation proceedings emerge from my discussion of *Proce-*

dure, Supra. Basically it is my belief that there is no need for the wholesale application of the specific provisions of the APA to the compensation process, but that the intendment of at least certain of the provisions ought to be applied. These provisions are: Five U.S.C. §§ 554 (b), (c), (d), 555 (b), (c), (d), (e), 556 (b), (c), (d), (e), 557 (b), (c), 702 (judicial review—you have this in §463), 706 (scope of review—see my comments to your §§ 457 (d) and 463), 3105, 3344, 5362, 7521.

That concludes my comments on Title I. May I reiterate my wholehearted support of your proposal and thank you for the opportunity to appear here today.

¹ See appendix.

State Compensation for Criminally Inflicted Injuries

PAUL FREDERICK ROTHSTEIN

STATE COMPENSATION FOR CRIMINALLY INFLICTED INJURIES

PAUL FREDERICK ROTHSTEIN*

California has followed, and Wisconsin and the federal government³ are considering following, the pioneering examples set last year by New Zealand⁴ and Great Britain⁵ in providing at least circumscribed state compensation for criminally inflicted personal injury. The time is ripe to emphasize (without discussing or describing generally the plans or the area)⁶

¹ Cal. Welfare & Inst'ns § 11211. This was enacted in July 1965, as Chapter 1549

of the Session Laws

² Wis. Senate Bill 450 (April 1965)

³ S. 2155, 89th Cong., 1st Sess. (1965), introduced by Senator Yarborough this June, is presently in the Judiciary Committee. The Senator's remarks appear at 111 Cong. Rec. 13499 (1965). The proposal covers only the District of Columbia and other places within the special maritime and territorial jurisdiction of the federal government (where rape, murder, assault, etc. are federal crimes). This includes American ships on the high seas and international waters, lands reserved or acquired for the use of the United States and under the exclusive or concurrent jurisdiction of the federal government (including forter declevance and argently forter argument forters) and American air ment (including forts, dockyards, and arsenals of the armed forces), and American aircraft over the high seas and international waters. The geographic limitation results from constitutional, political, and fiscal doubts, but Senator Yarborough hopes, in common with former Justice Goldberg, that the plan will serve as a model for the states.

4 Public Act No. 134, 1963 (N.Z.). The Parliamentary debates are dated September

12, 1963.

⁵ The British scheme is non-statutory. See Home Office, Compensation for Victims of Crimes of Violence, CMD. No. 2323 (1964) [hereinafter cited as British White Paper]; 694 H.C. Deb. (5th ser.) 1127-243 (1964); 257 H.L. Deb. (5th ser.) 1351-419 (1964); 697 H.C. WRITTEN ANSWERS (5th ser.) 89 (1964). The Conservatives initiated several progressive measures just before they lost the autumn 1964 elections to Labour. See, e.g., the Resale Prices Act [1964] Eliz. II, C. 58 (limiting resale price maintenance), discussed in Rothstein, The New British Resale Prices Act, 13 Am. J. Comp. L. 249 (1964).

As a result of the debates, the compensation scheme has been slightly refined since As a result of the debates, the compensation scheme has been slightly refined since the White Paper. The principal recent items are these: Criminal Injuries Compensation Bd., Summary Report, July 15, 1965; id., May 12, 1965; id., March 4, 1965; id., Feb. 8, 1965; Criminal Injuries Compensation Bd., Summaries of Cases, June 1965; id., May 1965; Criminal Injuries Compensation Bd., A Guide to the Compensation Scheme, Feb. 1965; Home Office, Press Notice, Aug. 1, 1964; Criminal Injuries Compensation Bd., Compensation for Victims of Violence, June 24, 1964; Criminal Injuries Compensation Bd., Reports of Hearings (mimeo, undated). The Board's first complete annual report, covering the period Aug. 1, 1964, to March 31, 1961, has been prepared and is to be sublished as a White Paper soon.

published as a White Paper soon.

⁶ The New Zealand scheme is briefly described in 12 J. Pub. L. 367 (1963), the British in 61 L. Soc'y Gazette 629 (1964) and 78 Harv. L. Rev. 1683 (1965). See also Perlman, Compensation and Restitution in the Criminal Court (pts. 1-2), 108 Sol. 13. 663, 683 (1964). No doubt the other plans will shortly be the subject of specific law review commentary. For general discussion of the area, see Barrie, Victims of Violence, 112 L.J. 830 (1962); Griew, Compensation for Victims of Crimes of Violence, 1962 CRIM. L. REV. (Eng.) 801; Yahuda, Victims of Crime, 105 Sol. J. 145 (1961). Compensation L. Rev. (Edg.) 801; Tahuda, Victims of Crime, 103 Sol., J. 143 (1901). Compensation for Victims of Criminal Violence—A Round Table, 8 J. Pub. L. 191 (1959). See also Schafer, Restitution to Victims of Crimes (Library of Criminology, No. 2, 1960); Home Office, Compensation for Victims of Crimes of Violence, CMD. No. 1406 (1961); Home Office, Penal Practice in a Changing Society, CMD. No. 645 (1959); London Times, May 8, 1964, § 1, p. 18, col. 3; id., May 6, 1964, § 1, p. 6, col. 5; Hussey, Britain Pays

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a few limited points this author considers interesting and important before the day when other states join the movement.7

I. THE ROLE OF THE OFFENDER'S GUILT

This spring the British Criminal Injuries Compensation Board rejected a six-year-old's claim for the loss of an eye because the concededly malicious thrower of the injuring stone was just under ten—the age at which capacity to form criminal intent begins under English criminal law. (That age is to go up to sixteen soon.) Presumably injuries by insane persons will be treated in a similar fashion.

The case raises the question, to what extent should a scheme of state compensation for victims of crimes measure the state's liability by that of the offender?

Fundamental to all of the proposals and operating programs is the notion that there must be traditional culpability before there can be compensation, even though the culpable one is not to be a party to the proceedings. It is not a prerequisite to compensation under any of the plans that liability be established first in a civil or criminal proceeding against the offender.8 but the compensating authority must find that an offense has given rise to the injury. The question raised here is whether this determination should be made on the same standards a court would apply in proceedings against the offender. It is the relevance of culpability (other than the claimant's) to public compensation that is the limited subject of this section.

Apparently to avoid results like that in the case of the six-year-old, the federal proposal provides that want of capacity to form intent by reason of drunkenness, insanity, infancy, etc., shall be disregarded. Such cases are to

the Victim of Crime, N.Y. Times, Feb. 21, 1965, § 6 (Magazine), p. 19; id., March 29, 1964, § 4, p. 6E, col. 1; id., March 25, 1964, § 1 p. 18, col. 2; id., March 24, 1964, § 1, p. 1, col. 7; id., Sept. 22, 1963, § 1, p. 26, col. 1; see also Mr. Justice Goldberg, Equality and Governmental Action, 39 N.Y.U.L. Rev. 205 (1964).

The should be noted that in a sense the need for compensation, and the ability to provide it, were less in Great Britain than in the United States. Britain's rate of violence

is lower and the National Health Service and National Insurance Scheme absorb medical

expenses and guarantee a wage during illness.

8 It seems that in general, where both judicial (civil or criminal) and compensation proceedings have been brought (in either order), factual determinations in the one are not binding in the other, even where both involve the same incident, injury, and persons; nor is there, apparently, any merger or bar as between the two types of proceedings. But the federal proposal makes a conviction conclusive of the fact that the offense convicted for has been committed. In this situation, the difference in parties and standard of proof will not aggrieve the claimant or the state. As a practical matter, when the offender has been tried, the conviction or acquittal seems to influence British compensation decisions. See text accompanying note 34 infra for the possibility of set-off in multiple-recovery situations.

⁹ The plans generally make some provision for proportionate reduction or total defeat of compensation on account of contributory behavior of the claimant, in order

to avoid collusion and profit by one in dereliction.

be scrutinized for intent as if the capacity were there. Whether this can be done remains to be seen.¹⁰ The Wisconsin proposal contemplates *only* situations in which the offender is not a criminal because of his youth!

The concept of remoteness, like that of *mens rea*, is related to culpability and plays a role under these compensation plans, too. The British plan compensates only for injuries which are "directly attributable" to an act within the scheme. The federal, New Zealand, and California plans require that the injury "result" from or be caused "by" such an act. It is too early to tell whether these mean that, except where there is contrary provision, an injury is too remote if it would be too remote in a civil action in a court of law. In a court of law the determination would often be made on the basis of whether or not the injuries were "foreseeable" to the offender. There are signs that the temptation to transfer these concepts into the new area will be yielded to, especially since the boards are generally comprised of lawyers. Whether this is desirable will be discussed shortly.

All of the plans, however, clearly assign a role to the *criminal* law concept of remoteness. Where an act or offense not itself included in the plan¹¹ results more or less accidentally in an injury which, if intentionally and directly inflicted would constitute a crime which is included, there will be no compensation unless a court of law would hold the actor criminally responsible for the essentially unintended consequence. This is so because the plans cover only the results of crimes, or of certain kinds of crimes.¹² In a criminal trial the determination of whether or not an accused is liable for essentially unintended consequences of his actions often depends upon the degree to which he foresaw or should have foreseen those consequences. The connection between intent and remoteness becomes very obvious here.

Falling into this class of cases would be those where death or personal injury somewhat unexpectedly results in the course of a robbery (surprisingly

¹⁰ Some of the offenses covered are described in the bill expressly in terms of intent, namely, assault with intent to kill, rob, rape, poison, commit mayhem, or with a dangerous weapon; and voluntary manslaughter. Other assaults and involuntary manslaughter are excluded.

¹¹ The schemes of course comprehend only criminal acts. While the New Zealand and federal schemes enumerate which offenses are covered, the British and California schemes cover all crimes "of violence" except those expressly excluded. It is not certain that the quoted phrase is intended to have a limiting effect under the British scheme. The phrase itself is of uncertain scope. It is not clear which of the two approaches—the New Zealand and federal on the one hand, or the British and California on the other—results in broader coverage, since some of the enumerated crimes (such as sexual offenses involving the victim's voluntary cooperation, and perhaps kidnapping) may not be deemed inherently crimes of violence. On the other hand, a crime committed in a violent manner or proximately resulting in injury may be a crime of violence. At one point the British White Paper seems to require force, which would exclude crimes involving voluntary submission (at least in the absence of undue imposition because of age, etc.).

robbery is not an included offense, at least under the federal and New Zealand plans) 13 or from a criminal fraud (also excluded) 14 practiced, say, by a chiropractor who purports to have a cure for cancer, thereby keeping his patient from proper medical treatment. 15 In the case of the robbery, no difficulty arises if the robber himself did the shooting, e.g., to make good his escape, for there would be, in addition to robbery, an intentional homicide or aggravated assault (both covered). The difficulty arises where the gun is accidentally discharged or a victim or policeman carefully or negligently fires to thwart or apprehend the robber and thereby injures a bystander, a policeman, a victim, or a corobber. 16 This is the more unusual situation; perhaps it was felt that including robbery when aggravated assaults and intentional homicides are covered would be redundant. The omission of arson from the same plans is probably due to similar reasoning. There is little trouble in finding murder or aggravated assault in the ordinary case where arson has resulted in death or personal injury. But occasionally a problem is presented, for example, where there was very good reason to believe the building was deserted, or a fireman is injured or killed, or someone unexpectedly runs into the blaze to save personal possessions.¹⁷ The topical offense of rioting is a similar case in point. Fortunately, it is probably embraced by the phrase "crimes of violence" limiting the California (and British) schemes. But it is not an enumerated offense under the federal and New Zealand plans. Consequently, where rioting results in personal injury in a way that does not clearly constitute one of the covered kinds of assault18-for example, through impersonal stampeding, power failure, or the collapse of damaged property—the difficulties outlined above in this paragraph may arise. In fact, such cases may present remoteness problems even under the California and British provisions, although a sensible application of the concept of remoteness would take account of the fact that these are some of the very injuries anti-riot provisions are meant to prevent.

Clearly, distinctions regarding the need of claimants, the severity of

¹³ Is it a "crime of violence" under the California and British schemes? Probably. The British White Paper makes it clear that it is included.

14 This would most likely not be a "crime of violence." Nor is it an enumerated

offense under the other plans.

15 These were the facts in People v. Phillips, 42 Cal. Rep. 868 (Dist. Ct. App. 1965).

16 See, e.g., People v. Wood, 8 N.Y.2d 48, 167 N.E.2d 736, 201 N.Y.S.2d 328 (1960); Commonwealth v. Redline, 391 Pa. 486, 137 A.2d 472 (1958); Commonwealth v. Almeida, 362 Pa. 596, 68 A.2d 595 (1949). See also Hitchler, The Killer and His Victim in Felony-Murder Cases, 53 Dick. L. Rev. 3 (1948).

17 See, e.g., State v. Leopold, 110 Conn. 55, 147 Atl. 118 (1929); State v. Glover, 330 Mo. 709, 50 S.W.2d 1049 (1932).

18 See, pote 10 subra. The coverage is similar in New Zealand. I have summarized.

¹⁸ See note 10 supra. The coverage is similar in New Zealand. I have summarized these assaults by the phrase "aggravated assault." Assault is the most common offense involved in the British compensation cases to date, and many of them are ordinary assaults incident to a quarrel, which would be outside the federal and New Zealand coverage.

injury, and the kind of injury, as well as limitations on the amount that may be claimed, are all relevant to a scheme of state compensation and justified by budgetary constraints. 19 But the concepts of intent, remoteness, and foreseeability to the offender were developed in another context—to avoid unfair imposition on an individual who, while causing injury as great as any, nevertheless did not manifest enough culpability to justify shifting the loss to him, or punishing him. Penal policy should exculpate where the harm was so remote from this offender's and from ordinary contemplation and expectations that punishment would not deter him or others from harmful activity in the future, that rehabilitation is not required, and that confinement because of dangerous propensities is not in order. None of these things has anything whatever to do with whether the victim ought to be aided. The exculpation of juvenile offenders is based on policy considerations that are even less relevant for our purposes. Among other things, there are deemed to be better ways to rehabilitate youthful offenders than subjecting them to the ordinary criminal processes and stigmas.

Ought the Board to be required to make a factual inquiry into the offender's state of mind and into the degree of foreseeability to him, in a proceeding where there is no danger of imposition on him, and where the claimant can be compensated without corresponding detriment to the offender?²⁰ Should this administrative tribunal—with new purposes and policies to administer—be required to look to the civil and criminal cases in its jurisdiction and guess what those courts would do, in their own frames of reference, with the particular facts presented to the Board?

The astute reader will have been led by this time to question the whole notion of excluding tortious and even accidental injuries, and of excluding injuries as somehow too remote.21 But the policy-makers and the public are

²⁰ While the offender may have to reimburse the state (see text accompanying notes 35-36 *infra*) he can have his responsibility tested by stricter standards in the reim-

bursement proceeding.

Of course the state is in a way a "defendant" risking imposition and detriment in the compensation proceeding, but it is a "defendant" who is able to distribute the loss

¹⁹ Many such provisions are found in the plans. For example, all of the schemes Amany such provisions are found in the plans. For example, all of the schemes are limited to personal injury, the California scheme to incapacitation and death, and the British to injuries giving rise to at least three weeks loss of earnings or worth at least £50 (about \$140), with earnings and earning capacity never to be calculated on a rate in excess of the average industrial earnings at the time of the injury as published by the Ministry of Labour. There may be a ceiling on awards (\$25,000 in the federal plan), and/or limits imposed by the total appropriations. The California award is to take account of the number of dependents, and, it would seem, financial need.

very widely.

21 A moment's reflection will reveal that if the only change in the administration of the current compensation schemes was the elimination of the requirements of capacity, intent, negligence, recklessness, and foreseeability-all of which pertain to fault-then there would be, in effect, no need to ascribe the injury to any particular act whatever, as even wholly accidental injuries would be compensable and the limitation to crimes would have no meaning.

in a mood to take only a limited step, and to confine compensation to criminally inflicted injuries. This limitation would be meaningless without some concept of remoteness.²² A broader compensation system could be brought within the same budget by introducing or increasing other perhaps less arbitrary limitations, 23 but apparently society would rather compensate the narrower class more fully.

At least these modest suggestions can be made with some hope of adoption: The requirement of capacity should be abandoned; covered crimes should not be limited to enumerated offenses or to crimes of violence, because of the difficulty of predicting what crimes may give rise to personal injury; and the system should develop its own notions of what injuries are "too remote" from an offense, on the basis of social policy. (To some extent these notions might be laid down in advance,24 and to some extent evolved.25) For example, on the "remoteness" point, those charged with the decision may find that an injury non-negligently incurred by a private citizen through helping another under criminal attack, ought not to be considered remote from the offense, in

Rehabilitation? Incapacitation? Allocation of loss between two private parties? Distribution of loss through state compensation? Moral blame?

23 See note 19 supra and accompanying text. One concept that has not been tried is to make compensation dependent upon inadequacy of remedy at law (such as disappearance of the liable party, his financial irresponsibility, uncollectibility of a judgment, or doctrinal inadequacy). The latter suggests the notion that it is perhaps in the absence of wrongdoing and legal liability that compensation is most needed! The French award compensation on this basis to victims of automobile accidents. Law of Dec. 31, 1951.

²⁴ In certain areas the plans themselves are specific about what is considered remote, in response to peculiar policies. Thus, under the British scheme, support for children born of sexual offenses is not payable. Pain, suffering, nervous shock, loss of expectation of happiness, and elements recoverable in case of death are the subject of special provision under some of the plans. There is no reason why other guidelines could not be suggested legislatively.

25 The administrative process has great potential for evolving in response to the policies it is charged with administering. Workmen's compensation has developed its own body of "remoteness" law in differentiating between injuries "arising out of" the employment situation and those that should not be made a cost of the business. The private financing of workmen's compensation has furnished some guidance.

The British scheme is non-statutory and eminently subject to change and adjustment

as experience and history gather.

²² There is almost no injury which is not in some way the result, however distant, of a past offense. There may be difficulty in tracing the offense, however, given an imperfect knowledge of history. Any offense has practically infinite consequences, in the sense that it has changed for all time the course of events to a pattern that would be different had the offense not occurred. There will be some injuries so unexpected and so remote in time, space, and the number, complexity, or importance of contributing intervening events, that we will not be willing to attribute them to the original offense even though they would not have happened but for that offense. For example, but for an illegitimate act of intercourse a certain baby would not have been born. Had he not been born, he would not, on a certain day twenty years later, have taken Miss X for a drive in which she was injured. Will we attribute Miss X's injury to the original intercourse? Will we say the injury results from the offense? Will we say that the intercourse was the "legal" or "proximate" cause of the injury? Perhaps the answer clearly should be "no" in this case. But in many instances the answer will depend upon why we are attributing or not attributing—upon the legal consequences of attribution or nonattribution. We must ask, What is the purpose to be served? Retribution? Deterrence? Rehabilitation? Incapacitation? Allocation of loss between two private parties? Distribu-

view of the present concern over the lack of Good Samaritans.²⁶ Under such a policy, it may be irrelevant whether or not the injury would be ascribed to the offender under tort or criminal law. The same considerations may apply to an injury incurred by a private citizen while preventing a crime, aiding an official arrest, or making a citizen arrest. Similarly, the Board should consider as a totally new problem, the question of whether and in what circumstances it is desirable to compensate an innocent bystander injured by a policeman attempting to thwart or apprehend a criminal; and this determination ought to be made without regard to the policeman's or the offender's legal responsibility for that particular injury.²⁷ Indeed, it would seem that such a person ought to be compensated *especially* in the absence of other liability for him to draw upon for remedy.

The British scheme covers not only injuries "directly attributable" to a criminal offense, but also those "directly attributable" to an arrest or attempted arrest of an offender or suspected offender, or to the prevention or attempted prevention of an offense, or to the giving of help to a constable engaged in any of these. This to some extent touches on the two kinds of injuries outlined in the last paragraph above (i.e., the injuries suffered by the citizen-helper and the bystander), but still seems to leave it open to the Board to decide whether and when such injuries are "directly attributable" to aiding a constable or making an arrest or preventing an offense. For example, the injury to the bystander, mentioned above, may be considered only an indirect product of an attempted arrest or prevention if the provision is held to contemplate only injuries to a citizen arrestor or preventor, a policeman, or one actually aiding a policeman (and perhaps only when requested), on the grounds that the relevant policy is to encourage persons to help. This would not be an unnatural construction. The provision presents questions concerning whether there actually has to have been an offense (or attempt); and how sub-

²⁶ Apparently California felt that additional legislation was necessary to embrace the Good Samaritan. Cal. Penal Code § 13600-03. This was enacted in July 1965, as Chapter 1395 of the Session Laws. Wille, Good Samaritans—Law and the Golden Rule, 200 The Nation 447 (1965), discusses a conference in Chicago which was stimulated by the notorious and recently manifest lack of Good Samaritans in urban centers and by some compelling cases of injured but socially neglected Good Samaritans.

27 Receives English policymen like their American current like are servered by some

²⁷ Because English policemen, like their American counterparts, are usually somewhat impecunious, and, as in America, injuries they produce are seldom covered by private insurance, the local English authority is made legally responsible (unlike its American counterpart) for unlawful performance of the policeman's duty, under long standing British custom now formalized in section 48 of the Police Act of 1964, which has not been superseded. This would seem to cover at least two situations in which crime can result in injury: where the policeman commits the injuring crime, and where the policeman is stimulated by a criminal into negligence injurious to someone else. It fails to comprehend the more compelling situation where a criminal stimulates a policeman into lawful action that is injurious to someone else. The British reluctance to equip police with weapons renders physical injury by police less likely than in this country. The Police Act, of course, is not limited to personal injury.

stantial the grounds for "suspicion" must be where that is sufficient; and who must suspect; and whether a reasonable mistake of fact disqualifies the claimant; and whether a different rule applies regarding a mistake about who is the offender rather than about whether an offense was committed; and whether a policeman is allowed more leeway than a private citizen in these respects. These are all questions that have received answers in other parts of the civil and criminal law, and the temptation will be to follow blindly those answers without reexamining them to discover if they are apposite in this area. The different policies that may operate are suggested by the fact that in many places a would-be protector who intervenes under a reasonable mistake of fact and erroneously attacks the innocent party in a fracas, is insulated from criminal but not civil liability. This is because he who is the more at fault should bear the loss, even if his fault was not great enough to require incarceration.

There is not much hope of discovering any sensible general principle defining or governing remoteness across the board, as the notion of foreseeability is supposed to do in other parts of the law. The idea that the state owes something to those whom it has failed, 28 and therefore provides criminal compensation, may furnish some tenuous guidance. In a sense, the state has failed victims of torts and accidents, too, but perhaps not so obviously. Under this rationale, we might compensate only those victims who could have protected themselves had they not relied on general promises of state protection held out by the state as inducement to the relinquishment of private selfprotective measures.²⁹ An inquiry would have to be made in each case to determine whether there actually was prejudicial reliance on the state: for example, whether the carrying of a gun would have made any difference; whether the victim did in fact carry a gun; whether he attempted to use it; and whether the crime could have been defended against. Of course, if the gun were used unsuccessfully, the claimant conceivably might counter by arguing that he would have been a better shot in a more rugged society that did not encourage him to neglect practicing self-defense. This gets into the problem of how primitive or unprotective a society we are to suppose in our calculations,30 and invites speculation as to what sorts of protective measures against injury people might have devised if things were

²⁹ Thus the victim is rewarded for civilized behavior because morally he ought to be and because of the inducement to others.

³⁰ An additional difficulty could be that it may be impossible to imagine certain sophisticated offenses occurring in a society of the requisite primitiveness.

²⁸ Cf. Williams v. State, 260 N.Y.S.2d 953 (Ct. Cl. 1965), where damages were awarded against the state in favor of a child born as a result of the rape of a mental patient in the state's care. The theory was that the state was negligent in protecting the inmate. Damages were for the mere existence of the child and also for the stigma.

other than they are. But it would at least be possible to distinguish between cases on the basis of comparative degree and clarity of prejudicial reliance on the state, and this would be some help. The thoroughness of the inquiry into these matters would have to be somewhat arbitrarily limited in the interests of expedition and economy. My guess is that such a standard as this would often exclude other persons than the direct, immediate, intended victim of an intentional, violent wrong, since he is normally the only one to whom danger is apparent enough to stimulate self-defense and who is in a position to defend himself. Thus, offenses of negligence³¹ and normally non-dangerous offenses would frequently be excluded, as well as many consequences or persons one degree remote. This would not always be true, however. For example, in the chiropractor-fraud case above, 82 it might be argued that the patient would have developed greater astuteness and undertaken his own investigation of medical qualifications if the "state" did not purport to do so. Many other fraud cases come to mind. If this theory of remoteness seems too restrictive (for example, many consequences of rioting might be excluded), perhaps it is because the entire rationale behind limiting compensation to criminally inflicted injuries is faulty.

Let us hope that some of these things will influence the drafting of future plans and the inevitable development of criteria of "remoteness" under existing plans. There are indications that harms to other than the immediate victim. and harms other than those aimed at by the particular criminal provision violated, are to be considered too remote under some of the plans.³³ While this concept of remoteness has the advantage of being fashioned for the area, it is not responsive to the numerous policies that become relevant.

³¹ Crimes of negligence (such as involuntary manslaughter, negligent homicide, etc.) seem to be excluded from the New Zealand and federal enumerations. The British scheme excludes motor-vehicle offenses except when the vehicle is intentionally used as a weapon, as in a deliberate attempt to run down. Aside from "floodgate" considerations, it is felt that insurance lessens the need here, as in the case of property injury, although there is more to the exclusion of property than that. Why insurance is not as widespread in non-automobile areas of personal injury is beyond the scope of this paper.

32 See text accompanying note 15 supra.

³³ This theory of remoteness jibes best with the selections of crimes that appear in the New Zealand and federal plans, and perhaps with the limitation to "crimes of violence" in Britain and California. See also the phrasing of the British exclusion for the direct victim may seek compensation. Also, prior drafts of the New Zealand plan defined a compensable victim as "any person who suffers" injury or death as a result of the crimes. This was changed, apparently in the hopes of eliminating all but the immediate victim, to "any person injured by" a listed crime. The change does not clearly accomplish that effect, however, and there is still doubt in the area. Virtually all of the British compensation cases to date involve the intended victim. But British cases Bill British compensation cases to date involve the intended victim. But British case B11 (June 1965) denies compensation to a man accidentally pushed down some stairs by a fight behind him, on the grounds that the injury was not directly attributable to a criminal offense. The full Board has not heard the case. See also Full Board Hearing No. 4 (1965).

One or two other points, less fundamental than the relationship of fault to compensation, remain to be made in this observation.

II. CONTINUING CIVIL LIABILITY AND A LIMITED APPLICATION OF RES JUDICATA

The compensation plans do not provide for the abrogation of the offender's civil liability, even after compensation for the injury. There may be provision for reduction or reimbursement of the compensation award to the extent of other recovery.³⁴ (Where there is such reduction or reimbursement, the amount by which the one award exceeds the other may be pocketed by the victim.) The Board itself may be able to assert the offender's liability in a special proceeding against him, insofar as necessary to effect repayment.³⁵ There may be a provision for contribution to the general fund of special fines levied in the criminal proceedings against offenders guilty of a personal injury or death, irrespective of whether a particular compensation claim has been filed in connection therewith.36

Thus, the plans have alleviated for the victim the problem presented by the offender who has disappeared or who is financially irresponsible and perhaps confined and unworking.³⁷ But the welfare and rehabilitation problems presented by saddling an impoverished, incarcerated, and unworking offender or his family with a judgment can still occur.38

The plans could easily provide that after compensation³⁹ the offender's

³⁴ Compare S. 2155, 89th Cong., 1st Sess. § 305(b) (1965), with British White

Paper ¶ 28.

35 Compare S. 2155, 89th Cong., 1st Sess. § 401 (1965), Wis. Senate Bill 450, § 48.999(3) (April 1965), and Public Act No. 134, § 23(2), 1963 (N.Z.). These proceedings can be brought only after the offender has been convicted for the offense.

36 See Cal. Welfare & Inst'ns § 12111, ¶ 3.

37 But California somewhat unrealistically hopes to finance the entire project solely through fines levied against offenders.

³⁸ Neither of the two problems of this paragraph were satisfactorily solved by an older practice in New Zealand of requiring certain offenders to make reparation as part of the criminal proceedings against them, which is also a practice in some of the part of the criminal proceedings against them, which is also a practice in some of the Code countries where criminal and civil proceedings may be combined. For France, see Code Civil art. 1382 (Fr. 56th ed. Dalloz 1957); Code de Procedure Penale art. 2 (Fr. Dalloz 1960); Code Penal art. 51 (Fr. 57th ed. Dalloz 1960). For West Germany, see Straffresestrebuch (Penal Code) art. 60.

39 We are probably not yet ready to deprive the victim of an initial choice of remedies. Such choice is not as objectionable as the cumulation that is permitted under the current plans from the standpoint of the criticisms made in the text since in moor

the current plans, from the standpoint of the criticisms made in the text, since in many cases where the offender's finances are infirm, the victim will select compensation (depending, of course, on how adequate compensation is in general). Under the traditional pending, of course, on how adequate compensation is in general). Other the traditional system, where no compensation is available, he will more often choose to sue the offender, as this is his only hope of reparation. Under the current plans, it is true, compensated victims who have a good case for greater damages may not be inclined to bring actions against the offender unless his finances seem firm enough that a judgment in excess of the compensation award could be paid or unless the discrepancy between the expected judgment and the award already gotten is rather large. Whether there are

liability can be tapped only by the compensating authority, whose decision to tap it should be made on the basis of welfare and rehabilitation considerations, among others, and in consultation with the relevant agencies. 40 Apparently it is felt under the present plans that compensation may be inadequate reparation. Therefore, it could be provided, in addition, that any excess recovered by the compensating authority above that necessary to repay the original award should be turned over to the victim, and the inadequacy of the original compensation could be one of the factors entering into the authority's decision to sue and into the determination of how much to ask. While the compensating authority would no longer be able to depend for reimbursement on private actions against the offender to any extent, the additional burden on it and its resources would be well worthwhile in terms of overall social gains.

However, even if on balance of these considerations it is still deemed desirable to permit a compensated victim to try to increase his gains at law, there is no reason to hold out similar hope in the reverse situation—that is, a claim at law fully collected should totally preclude subsequent compensation for the same injury. Where a judgment has been only partially collectable, compensation ought merely to pay the deficiency, more or less automatically, with subrogation. In other words, the rationale of merger and bar is not entirely inapposite. Further, where the claimant has brought, in either order, a compensation and a civil action for damages, alleging the same offense and injury, he ought to be bound in the subsequent proceeding by a determination in the earlier proceeding that the act or injury did not occur, where that was plainly the basis of the decision. A contrary determination of these matters, however, ought not to be binding in favor of the claimant, since the difference in parties here would deprive the state or the offender of an opportunity to argue the issues.⁴¹

III. INTRA-FAMILY OFFENSES

The British scheme excludes, among other things, "offenses committed against a member of the offender's family living with him at the time." The

elements recoverable at law which are not recoverable as compensation, such as punitive and exemplary damages, will have some effect upon the victim's course of conduct in these matters.

these matters.

40 Decisions to proceed under the New Zealand provision, supra note 35, are in theory made on this basis. Amounts asked for thereunder are determined in the same way. Under the California provision, supra note 36, the judge is to take some of these matters into account in levying the fines: The provision requires a fine "commensurate with the gravity of the offense" (rather than "with the offender's economic condition") if the judge finds the family will not go on relief as a result. It is uncertain whether offenses of the same gravity may result in different fines where the families differ in their ability to stand them without going on relief. The provision is mainly concerned with welfare goals and to some extent neglects rehabilitation policy. Under the New Zealand practice, supra note 38, the judge presumably could, if so moved, consider rehabilitation and welfare.

federal proposal analogously provides for the exclusion of "the offender's relatives and . . . members of his household." The federal phraseology, being directed at persons rather than offenses, seems preferable because one who is not himself a member of the family may be indirectly injured by a crime committed by one member of the family against another. The purpose of such a provision is apparently to prevent the offender benefitting under the plan by his own wrong and to discourage collusion. In view of the fact that many crimes of violence take place within the family, care should be taken to make the provision no broader than required by its purpose. While both provisions seem too broad, the federal one is the better.

IV. Some Comparisons With Workmen's Compensation

In general there are no schedules establishing amounts to be paid for particular injuries, as under workmen's compensation. While the workman usually may opt between a lump sum and periodic payments, lump sums alone are payable under British criminal injuries compensation, and the federal criminal injuries compensation board may grant awards on whatever "terms" it deems desirable. Some of the others provide for periodic payments. Periodic payments would seem preferable (despite the additional trouble and expense), especially if they are adjusted with administrative flexibility as the nature of the injury unfolds, which would reduce the guesswork and the over- or underestimation often inherent in common-law awards. Workmen's compensation awards, however, are generally not subject to such adjustment.

Under criminal injury compensation, awards are made by an administrative tribunal, with some guarantee of an adversary hearing and a decision on disclosed evidence. There is a deplorable tendency, here and abroad, to regard payments as ex gratia, a term connoting arbitrariness of administration and discouraging safeguards that would surround the dispensation of a right. Consequently most of the plans do not provide for appeal from board decisions, which are final; some discourage the presence of attorneys; and in all the roles of investigator, inquisitor, prosecutor, advocate, and judge are combined in essentially one agency—a vice that is less objectionable where there is judicial appeal, with a de novo hearing perhaps, as under workmen's compensation. Some of the plans provide for appeal within the administrative agency itself.

Conclusion

The reader should not conclude from the discussion that no plan would be better than a faulty one. The plans are an enormous advance, and are

⁴² The British White Paper does recognize that in "extraordinary" cases, where only a provisional medical opinion can be had, it may be necessary for more than one payment to be made, and the Board has followed this procedure a number of times.

to be encouraged in all quarters. It is in this spirit that the present observations are offered.

APPENDIX A

RECENT FACTS AND FIGURES UNDER THE BRITISH SCHEME

I. Breakdown of applications received by the Board between Aug. 1, 1964 (the date of the inception of the scheme) and July 1, 1965:

Awards of compensation by single members of the Board	
accepted by applicants	274
Awards made after a hearing	5
Interim awards (final award not yet feasible because of	
provisional medical assessment)	24
Applications disallowed	34
Applications withdrawn or abandoned	13
Applications decided by single members, applicants' acceptance	
not yet received	66
Applicants who have asked for a hearing because they disagree	
with single member decision or award	9
Applications under investigation	587
Total number of applications as of July 1, 1965	1012
Total amount of awards £136	,000
(\$390	,000)

II. Increase in rate of application:

on deceased victim

Month	Number of New Applications
Dec. 1964	65
Jan. 1965	82
Feb. 1965	161
April 1965	
June 1965	,

III. Some typical awards (Amounts include, inter alia, out of pocket expenses and loss of wages minus National Insurance payments, where appropriate):

17-year-old girl, disfigured face	£ 300 (\$ 800)
17-year-old girl, loss of left eye	£2,807 (\$7,860)
12-year-old boy, severe eye injury	£2,000 (\$5,600)
Adult, loss of eye	£2,000 (\$5,600)
Adult, eye injury	£1,520 (\$4,250)
1½ yr. old, whose mother was killed (amount	
takes account of Gov't Allowance)	£1,000 (\$2,800)
Parents, partly dependent on	
deceased victim	£ 250 (\$ 700)
Widowed mother partly dependent	

£3,500 (\$9,800)

Fractured jaw and cut cheek suffered while stopping assault on woman) g
IV. Kinds of crimes; nature of victims; etc.:	
A. Of eighteen cases in January 1965, seven were assaults in the street by strangers. Among the remaining victims were policemen, a security guard, a public transport worker, and a hospital porter.	
B. Eight of 26 awards in February 1965, were to women. Five of the 26 involved robbery, and 6 unprovoked assaults in the street.	
C. Of 33 victims compensated in April 1965, four were women, four girls, and three policemen.	
D. In contrast to 65 awards, seven applications were rejected in June 1965, either because the injuries were not attributable to criminal offenses or were not sufficiently serious.	
APPENDIX B	
A Specimen Application Form under the British Scheme	
CRIMINAL INJURIES COMPENSATION BOARD	
APPLICATION FORM	
PLEASE NOTE	
Before sending this Application Form to the Board you should fill in all parts.	
Enter "NONE", "NOT KNOWN", "NOT APPLICABLE", if appropriate.	
1. PARTICULARS OF APPLICANT	

(a)	SURNAME (state Mr./Mrs./Miss) BLOCK LETTERS PLEASE
(b)	Christian Names
(c)	Ageyears (d) Single/Married/Widow/Widower
(e)	Address
(f)	Occupation
(g)	National Insurance Number
-	

2.	PAI	PARTICULARS OF CIRCUMSTANCES WHEN YOU WERE INJURED		
	(a)	Date and time		
	(b)	Location		
	(c)	Name of offender(s)		
	(d)	Description of incident in your own words		
3.	PAI	RTICULARS OF POLICE ACTION		
	(a)	Date when incident reported to Police		
	(b)	By whom it was reported		
	(c)	Police Station concerned		
	(d)	Has the offender been prosecuted?		
	(e)	Name of Court where offender appeared		
4.	PAF	RTICULARS OF PERSONAL INJURIES		
	(a)	What injuries did you suffer?		
	(b)	Name and address of your own doctor		
	(2)	Traine and address of your own dotter		
	(c)	If you received hospital treatment (i) Name and address of hospital		
		(1) Name and address of nospital		
		(ii) Period of treatment as an in-patient from to		
		as an out-patient from to		
	(d)	If your injuries required dental treatment please give name and address of		
	(4)	your dentist.		
5.	PAR	TICULARS OF EARNINGS LOST AS A RESULT OF THE INJURIES		
	(a)	Period of absence from work. From to		
	(b)	Particulars of earnings you have lost during absence		
	(0)	Name and address of employer(s) (1)		
	(c)			
		(2)		
	(d)	If no employer, please give full particulars of income and its source.		
	DAD	TICH ARE OF OUT OF ROCKET EXPENSES		

6. PARTICULARS OF OUT OF POCKET EXPENSES

If you incurred any out of pocket expenses as a direct result of your injuries (for example, fares to hospital for treatment, or repairs to damaged clothing) please list them below and give the cost.

	ITEM . £. s. d.
7.	PARTICULARS OF BENEFITS RECEIVED FROM PUBLIC FUNDS
	AS A RESULT OF YOUR INJURIES AND THE ADDRESS(ES)
	OF THE OFFICES OF THE GOVERNMENT DEPARTMENT(S)
	CONCERNED.
	(a) National Insurance sickness benefit of £ / / per week from to
	(b) National Insurance Industrial Injury benefit of £ / / per week from
	(c) Other National Insurance benefits of £ / / per week
	from
	Total the armstry of Tensions and National Insurance office at
	(d) National Assistance payments of £ / / per week from to or a total of £ / / between and from the National Assistance Board office at
	(e) Unemployment benefit of £ / / per week from to to
	(f) Particulars of any other sums received by you from public funds as a result of the injuries. Please state source and amount.
	PLEASE USE THIS SPACE FOR ANY FURTHER MATTERS
	YOU WISH TO BRING TO THE NOTICE OF THE BOARD
_	
	The above statements are true to the best of my knowledge and belief, and I agree to submit to such medical examination as the Board may require.
	Date 196 Signature
	If completed on behalf of an applicant in England who is under the age of 21, or an applicant in Scotland who is a pupil (i.e. a girl under the age of 12 or a boy under the age of 14), please state relationship here

TO: THE CRIMINAL INJURIES COMPENSATION BOARD

- 1. I authorise:-
 - (1) The doctor, the dentist, and the Hospital I attend(ed) to furnish the Board at their request with a report as to my injuries and treatment.
 - (2) The Police to furnish the Board at their request with a copy of my statement(s).
 - (3) The Ministry of Pensions and National Insurance, the National Assistance Board and any other authority from which I may receive payments from Public Funds to give the Board information relevant to my application.
 - (4) My employer(s) to give the Board information as to my earnings, and other matters relevant to my application.
- I understand that the Board may notify the authorities mentioned above that I have submitted an application, and may inform them of the Board's decision.

Date 196 Signatur	e
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SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 25-104, 25-104a, 29-935, 29-1093, 31-1301, 31-1402, 33-422, 35-401, 36-123, 46-603, 40-715, 40-809, 45-702, 45-703, 45-1403, 45-1606, 47-113a, 47-2344a, 47-2402, and 47-2809 of the District of Columbia Code.

Chapter 5.—ADMINISTRATIVE PROCEDURE

SUBCHAPTER I .- GENERAL PROVISIONS

- Sec.
 500. Administrative practice; general provisions.
- 501. Advertising practice; restrictions.
- 502. Administrative practice; Reserves and National Guardsmen.
- 503. Witness fees and allowances.

SUBCHAPTER II.—ADMINISTRATIVE PROCEDURE

- 551. Definitions
- 552. Public information; agency rules, opinions, orders, records, and proceedings.
- 553. Rule making.
- 554 Adjudications.
- 555. Ancillary matters.
- 556. Hearings; presiding employees; powers and duties; burden of proof; evidence; record as basis of decision.
- 557. Initial decisions; conclusiveness: review by agency; submissions by parties; contents of decisions; record.
- 558. Imposition of sanctions; determination of applications for licenses; suspension, revocation, and expiration of licenses.
- 559. Effect on other laws; effect of subsequent statute.

SUBCHAPTER III.—ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

- 571. Purpose.
- 572. Definitions.
- 573. Administrative Conference of the United States.
- 574. Powers and duties of the Conference.
- 575. Organization of the Conference
- 576. Appropriations.

AMENDMENTS

1967—Pub. L. 90-83, § 1(1)(B), Sept. 11, 1967, 81 Stat. 195, added item 500.

Pub. L. 90-23, § 2. June 5, 1967, 81 Stat. 56, substituted "Public information; agency rules, opinions, orders, records and proceedings" for "Publication of information, rules, opinions, orders, and public records" in item 552.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 8902 of this title and in title 12 sections 1464, 1730, 1730a, 1786, 1818; title 15 section 687e; title 39 sections 204, 410, 3001, 3603; title 49 section 1655.

SUBCHAPTER I.—GENERAL PROVISIONS

§ 500. Administrative practice; general provisions.

- (a) For the purpose of this section-
- (1) "agency" has the meaning given it by section 551 of this title; and
- (2) "State" means a State, a territory or possession of the United States including a Commonwealth, or the District of Columbia.
- (b) An individual who is a member in good standing of the bar of the highest court of a State may represent a person before an agency on filing with the agency a written declaration that he is currently qualified as provided by this subsection and is authorized to represent the particular person in whose behalf he acts.
- (c) An individual who is duly qualified to practice as a certified public accountant in a State may represent a person before the Internal Revenue Service of the Treasury Department on filing with that

agency a written declaration that he is currently qualified as provided by this subsection and is authorized to represent the particular person in whose behalf he acts.

- (d) This section does not-
- (1) grant or deny to an individual who is not qualified as provided by subsection (b) or (c) of this section the right to appear for or represent a person before an agency or in an agency proceeding:
- (2) authorize or limit the discipline, including disbarment, of individuals who appear in a representative capacity before an agency:
- (3) authorize an individual who is a former employee of an agency to represent a person before an agency when the representation is prohibited by statute or regulation; or
- (4) prevent an agency from requiring a power of attorney as a condition to the settlement of a controversy involving the payment of money.
- (e) Subsections (b)—(d) of this section do not apply to practice before the Patent Office with respect to patent matters that continue to be covered by chapter 3 (sections 31—33) of title 35.
- (f) When a participant in a matter before an agency is represented by an individual qualified under subsection (b) or (c) of this section, a notice or other written communication required or permitted to be given the participant in the matter shall be given to the representative in addition to any other service specifically required by statute. When a participant is represented by more than one such qualified representative, service on any one of the representatives is sufficient. (Added Pub. L. 90-83, § 1(1) (A), Sept. 11, 1967, 81 Stat. 195.)

HISTORICAL AND REVISION NOTES

 Section of title 5
 Source (U.S. Code)
 Source (Statutes at Large)

 500(a)
 5 App.: 1014
 Nov. 8, 1965, Pub. L. 89-332, § 3, 79 Stat. 1281.

500(b)—(e) 5 App.: 1012 Nov. 8, 1965, Pub. L. 89-332, § 1, 79 Stat. 1281.

500(f) 5 App.: 1013 Nov. 8, 1965, Pub. L. 89-332, § 2, 79 Stat. 1281.

The definition of "State" in subsection (a) (2) is sup-

plied for convenience and is based on the words "State, possession, territory, Commonwealth, or District of Columbia" in subsections (a) and (b) of 5 App. U.S.C. 1012.

In subsection (d), the words "This section does not"

are substituted for "nothing herein shall be construed". In subsection (d)(3), the word "employee" is substituted for "officer or employee" to conform to the definition of "employee" in 5 U.S.C. 2105.

Section Referred to in Other Sections
This section is referred to in title 38 section 3401.

§ 501. Advertising practice; restrictions.

An individual, firm, or corporation practicing before an agency of the United States may not use the name of a Member of either House of Congress or of an individual in the service of the United States in advertising the business. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 381.)

HISTORICAL AND REVISION NOTES

Deriva- tion	U.S. Code	Revised Statutes and Statutes at Large
	5 U.S.C. 101	Apr. 27, 1916, ch. 89, § 1, 39 Stat. 54.

Federal Register but not so published for former subsec. (b) (3), concluding part, excepting from publication rules addressed to and served upon named persons in accordance with laws and final sentence reading "A person may not be required to resort to organization or procedure not so published" and added provision deeming matter, which is reasonably available, as published in the Federal Register when such matter is incorporated by reference in the Federal Register with the approval of its Director.

Subsec. (a) (2), Pub, L. 90-23 incorporated provisions of former subsec. (c), provided for public copying of records. eliminated requirement of agency publication of final opinions or orders and authority for secrecy and withholding of opinions and orders required for good cause to be held confidential and not cited as precedents, latter provision now superseded by subsec. (b) of this section. designated existing subsec. (c) as clause (A), including therein provision for availability of concurring and dissenting opinions, added provisions for availability of policy statements and interpretations in clause (B) and staff manuals and instructions in clause (C), deletion of personal identifications from records to protect personal privacy with written justification therefor, and provision for indexing and prohibition of use of records not indexed against any private party without actual and timely notice of the terms thereof.

Subsec. (a) (3). Pub. L. 90-23 incorporated provisions of former subsec. (d) and substituted provisions requiring identifiable agency records to be made available to any person upon request and compliance with rules as to time, place, and procedure for inspection, and payment of fees and provisions for federal district court proceedings de novo for enforcement by contempt of noncompliance with court's orders with the burden on the agency and docket precedence for such proceedings for former provisions requiring matters of official record to be made available to persons properly and directly concerned except information held confidential for good cause shown, the latter provision now superseded by subsec. (b) of this section. Subsec. (a) (4), Pub. L. 90-23 added subsec. (a) (4).

Subsec. (b). Pub. L. 90-23 added subsec. (b) which superseded provisions excepting from disclosure any function of the United States requiring secrecy in the public interest or any matter relating to internal management of an agency, formerly contained in former subsec. (a), final opinions or orders required for good cause to be held confidential and not cited as precedents, formerly contained in subsec. (c), and information held confidential for good cause found, contained in former subsec. (d) of this section.

Subsec. (c), Pub. L. 90-23 added subsec. (c).

EFFECTIVE DATE OF 1967 AMENDMENT

Section 4 of Pub. L. 90-23 provided that: "This Act [amending this section] shall be effective July 4, 1967, or on the date of enactment [June 5, 1967], whichever is later."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 551 of this title; title 15 section 1193; title 42 section 4332.

§ 553. Rule making.

- (a) This section applies, according to the provisions thereof, except to the extent that there is involved—
 - a military or foreign affairs function of the United States: or
 - (2) a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts.
- (b) General notice of proposed rule making shall be published in the Federal Register, unless persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law. The notice shall include—
 - a statement of the time, place, and nature of public rule making proceedings;

- (2) reference to the legal authority under which the rule is proposed; and
- (3) either the terms of substance of the proposed rule or a description of the subjects and issues involved.

Except when notice or hearing is required by statute, this subsection does not apply—

- (A) to interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice; or
- (B) when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.
- (c) After notice required by this section, the agency shall give interested persons an opportunity to participate in the ruling making through submission of written data, views, or arguments with or without opportunity for oral presentation. After consideration of the relevant matter presented, the agency shall incorporate in the rules adopted a concise general statement of their basis and purpose. When rules are required by statute to be made on the record after opportunity for an agency hearing, sections 556 and 557 of this title apply instead of this subsection.
- (d) The required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except—
 - a substantive rule which grants or recognizes an exemption or relieves a restriction;
 - (2) interpretative rules and statements of policy; or
 - (3) as otherwise provided by the agency for good cause found and published with the rule.
- (e) Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 383.)

HISTORICAL AND REVISION NOTES

| Derivation | U.S. Code | Revised Statutes and | Statutes at Large | Su.S.C. 1003 | June 11, 1946, ch. 324, §4. |

In subsection (a) (1), the words "or naval" are omitted as included in "military".

as included in "military".

In subsection (b), the word "when" is substituted for "in any situation in which".

In subsection (c), the words "for oral presentation" are substituted for "to present the same orally in any manner." The words "sections 556 and 557 of this title apply instead of this subsection" are substituted for "the requirements of sections 1006 and 1007 of this title shall apply in place of the provisions of this subsection".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in

the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 556 of this title: title 15 sections 78ggg; 1193, 1262; title 16 section 668c-3; title 21 sections 358, 463; title 30 sections 861, 936; title 40 section 333.

The source of this section is referred to in title 7 section 1116.

√ § 554. Adjudications.

(a) This section applies, according to the provisions thereof, in every case of adjudication required

by statute to be determined on the record after opportunity for an agency hearing, except to the extent that there is involved—

- (1) a matter subject to a subsequent trial of the law and the facts de novo in a court;
- (2) the selection or tenure of an employee, except a hearing examiner appointed under section 3105 of this title:
- (3) proceedings in which decisions rest solely on inspections, tests, or elections;
- (4) the conduct of military or foreign affairs functions:
- (5) cases in which an agency is acting as an agent for a court; or
- (6) the certification of worker representatives.
- (b) Persons entitled to notice of an agency hearing shall be timely informed of—
 - (1) the time, place, and nature of the hearings.
 - (2) the legal authority and jurisdiction under which the hearing is to be held; and
 - (3) the matters of fact and law asserted.

When private persons are the moving parties, other parties to the proceeding shall give prompt notice of issues controverted in fact or law; and in other instances agencies may by rule require responsive pleading. In fixing the time and place for hearings, due regard shall be had for the convenience and necessity of the parties or their representatives.

- (c) The agency shall give all interested parties opportunity for—
 - (1) the submission and consideration of facts arguments, offers of settlement, or proposals of adjustment when time, the nature of the proceeding, and the public interest permit; and
 - (2) to the extent that the parties are unable so to determine a controversy by consent, hearing and decision on notice and in accordance with sections 556 and 557 of this title.
- (d) The employee who presides at the reception of evidence pursuant to section 556 of this title shall make the recommended decision or initial decision required by section 557 of this title, unless he becomes unavailable to the agency. Except to the extent required for the disposition of ex parte matters as authorized by law, such an employee may not—
 - (1) consult a person or party on a fact in issue, unless on notice and opportunity for all parties to participate; or
 - (2) be responsible to or subject to the supervision or direction of an employee or agent engaged in the performance of investigative or prosecuting functions for an agency.

An employee or agent engaged in the performance of investigative or prosecuting functions for an agency in a case may not, in that or a factually related case, participate or advise in the decision, recommended decision, or agency review pursuant to section 557 of this title, except as witness or counsel in public proceedings. This subsection does not apply—

(A) in determining applications for initial licenses;

- (B) to proceedings involving the validity or application of rates, facilities, or practices of public utilities or carriers; or
- (C) to the agency or a member or members of the body comprising the agency.
- (e) The agency, with like effect as in the case of other orders, and in its sound discretion, may issue a declaratory order to terminate a controversy or remove uncertainty. (Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 384.)

HISTORICAL AND REVISION NOTES

In subsection (a)(2), the word "employee" is substituted for "officer or employee of the United States" in view of the definition of "employee" in section 2105.

In subsection (a)(4), the word "naval" is omitted as included in "military".

In subsection (a)(5), the word "or" is substituted for "and" since the exception is applicable if any one of the factors are involved.

In subsection (a) (6), the word "worker" is substituted for "employee", since the latter is defined in section 2105 as meaning Federal employees.

In subsection (b), the word "When" is substituted for "In instances in which".

In subsection (c) (2), the comma after the word "hearing" is omitted to correct an editorial error.

In subsection (d), the words "The employee" and "such an employee" are substituted in the first two sentences for "The same officers" and "such officers" in view of the definition of "employee" in section 2105. The word "officer" is omitted in the third and fouth sentences as included in "employee" as defined in section 2105. The prohibition in the third and fourth sentences is restated in positive form. In paragraph (C) of the last sentence, the words "in any manner" are omitted as surplusage. Standard changes are made to conform with the definition

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 556, 557, 8124 of this title; title 7 section 87e; title 15 section 1193; title 30 sections 804, 814, 815, 818, 819, 820, 861.

§ 555. Ancillary matters.

- (a) This section applies, according to the provisions thereof, except as otherwise provided by this subchapter.
- (b) A person compelled to appear in person before an agency or representative thereof is entitled to be accompanied, represented, and advised by counsel or, if permitted by the agency, by other qualified representative. A party is entitled to appear in person or by or with counsel or other duly qualified representative in an agency proceeding. So far as the orderly conduct of public business permits, an interested person may appear before an agency or its responsible employees for the presentation, adjustment, or determination of an issue, request, or controversy in a proceeding, whether interlocutory, summary, or otherwise, or in connection with an agency function. With due regard for the convenience and necessity of the parties or their representatives and within a reasonable time, each agency shall proceed to conclude a matter presented to it. This subsection does not grant or deny a person who is not a lawyer the right to appear for or represent others before an agency or in an agency proceeding.

- (c) Process, requirement of a report, inspection, or other investigative act or demand may not be issued, made, or enforced except as authorized by law. A person compelled to submit data or evidence is entitled to retain or, on payment of lawfully prescribed costs, procure a copy or transcript thereof, except that in a nonpublic investigatory proceeding the witness may for good cause be limited to inspection of the official transcript of his testimony.
- (d) Agency subpenas authorized by law shall be issued to a party on request and, when required by rules of procedure, on a statement or showing of general relevance and reasonable scope of the evidence sought. On contest, the court shall sustain the subpena or similar process or demand to the extent that it is found to be in accordance with law. In a proceeding for enforcement, the court shall issue an order requiring the appearance of the within a reasonable time under penalty of punishment for contempt in case of contumacious failure to comply.
- (e) Prompt notice shall be given of the denial in whole or in part of a written application, petition, or other request of an interested person made in connection with any agency proceedings. Except in affirming a prior denial or when the denial is selfexplanatory, the notice shall be accompanied by a brief statement of the grounds for denial. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 385.)

HISTORICAL AND REVISION NOTES

| Derivation | Revised Statutes | tion | U.S. Code | and Statutes at Large | | 5 U.S.C. 1005 | June 11, 1946, ch. 324, § 6. 60 Stat. 240.

In subsection (b), the words "is entitled" are substituted for "shall be accorded the right". The word "officers" is omitted as included in "employees" in view of the definition of "employee" in section 2105. The words "With due regard for the convenience and necessity of the parties or their representatives and within a reasonable time" are substituted for "with reasonable dispatch" and "except that due regard shall be had for the convenience and necessity of the parties or their representatives". The prohibition in the last sentence is restated in positive form and the words "This subsection does not" are substituted for "Nothing herein shall be construed either to". In subsection (c), the words "in any manner or for any

In subsection (e), the word "brief" is substituted for purpose" are omitted as surplusage.

In subsection (e), the word "brief" is substituted for "simple". The words "of the grounds for denial" are substituted for "of procedural or other grounds" for clarity. Standard changes are made to conform with the definition

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

- This section is referred to in title 16 section 1193.

 § 556. Hearings; presiding employees; powers and duties; burden of proof; evidence; record as basis of decision.
 - (a) This section applies, according to the provisions thereof, to hearings required by section 553 or 554 of this title to be conducted in accordance with this section.
 - (b) There shall preside at the taking of evidence-
 - (1) the agency:
 - (2) one or more members of the body which comprises the agency; or
 - (3) one or more hearing examiners appointed under section 3105 of this title.

This subchapter does not supersede the conduct of specified classes of proceedings, in whole or in part, by or before boards or other employees specially provided for by or designated under statute. The functions of presiding employees and of employees participating in decisions in accordance with section 557 of this title shall be conducted in an impartial manner. A presiding or participating employee may at any time disqualify himself. On the filing in good faith of a timely and sufficient affidavit of personal bias or other disqualification of a presiding or participating employee, the agency shall determine the matter as a part of the record and decision in the case.

(c) Subject to published rules of the agency and within its powers, employees presiding at hearings may—

- (1) administer oaths and affirmations;
- (2) issue subpenas authorized by law;
- (3) rule on offers of proof and receive relevant evidence;
- (4) take depositions or have depositions taken when the ends of justice would be served;
 - (5) regulate the course of the hearing;
- (6) hold conferences for the settlement or simplification of the issues by consent of the parties;
- (7) dispose of procedural requests or similar matters;
- (8) make or recommend decisions in accordance with section 557 of this title; and
- (9) take other action authorized by agency rule consistent with this subchapter.
- (d) Except as otherwise provided by statute, the proponent of a rule or order has the burden of proof. Any oral or documentary evidence may be received. but the agency as a matter of policy shall provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence. A sanction may not be imposed or rule or order issued except on consideration of the whole record or those parts thereof cited by a party and supported by and in accordance with the reliable, probative, and substantial evidence. party is entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. In rule making or determining claims for money or benefits or applications for initial licenses an agency may, when a party will not be prejudiced thereby, adopt procedures for the submission of all or part of the evidence in written form.
- (e) The transcript of testimony and exhibits, together with all papers and requests filed in the proceeding, constitutes the exclusive record for decision in accordance with section 557 of this title and, on payment of lawfully prescribed costs, shall be made available to the parties. When an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 386.)

HISTORICAL AND REVISION NOTES

Derivation U.S. Code Revised Statutes and Statutes at Large June 11, 1946, ch. 324, § 7. 60 Stat. 241. § 557

In subsection (b), the words "hearing examiners" are substituted for "examiners" in paragraph (3) for clarity. The prohibition in the second sentence is restated in positive form and the words "This subchapter does not" are substituted for "but nothing in this chapter shall be deemed to". The words "employee" and "employees" are substituted for "officer" and "officers" in view of the definition of "employee" in section 2105. The sentence "A presiding or participating employee may at any time disqualify himself." Is substituted for the words "Any such officer may at any time withdraw if he deems himself disqualified."

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

HEARING EXAMINERS EMPLOYED BY DEPARTMENT OF COMMERCE

Functions vested by this subchapter and chapter 7 of this title in hearing examiners employed by the Department of Commerce were not included in the functions of officers, agencies, and employees of that Department which were transferred to the Secretary of Commerce by 1950 Reorg Plan No. 5, § 1, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263, set out in the Appendix to this title.

HEARING EXAMINERS EMPLOYED BY DEPARTMENT OF THE INTERIOR

Functions vested by this subchapter and chapter 7 of this title in hearing examiners employed by the Department of the Interior were not included in the transfer of functions of officers, agencies and employees of the Department of the Interior to the Secretary of the Interior, made by 1950 Reorg. Plan No. 3, § 1, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to this title.

HEARING EXAMINERS EMPLOYED BY DEPARTMENT OF JUSTICE

Functions vested by this subchapter and chapter 7 of this title in hearing examiners employed by the Department of Justice were not included in the transfer of functions of officers, agencies and employees of the Department of Justice to the Attorney General, made by 1950 Reorg. Plan No. 2, § 1, eff. May 24, 1950, 15 F.R. 3173, 64 Stat. 1261, set out in the Appendix to this title.

HEARING EXAMINERS EMPLOYED BY DEPARTMENT OF LABOR Functions vested by this subchapter and chapter 7 of this title in hearing examiners employed by the Department of Labor were not included in the transfer of functions of officers, agencies, and employees of the Department of Labor to the Secretary of Labor, made by 1950 Reorg. Plan No. 6, § 1, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263, set out in the Appendix to this title.

HEARING EXAMINERS EMPLOYED BY DEPARTMENT OF THE TREASURY

Functions vested by this subchapter and chapter 7 of this title in hearing examiners employed by the Department of the Treasury were not included in the transfer of functions of officers, agencies and employees of the Department of the Treasury to the Secretary of the Treasury, made by 1950 Reorg. Plan. No. 26, § 1, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 553, 554, 557, 558, 706, 3105 of this title; title 7 section 87e; title 15 section 1193; title 39 sections 3624, 3661.

§ 557. Initial decisions; conclusiveness; review by agency; submissions by parties; contents of decisions; record.

- (a) This section applies, according to the provisions thereof, when a hearing is required to be conducted in accordance with section 556 of this title.
- (b) When the agency did not preside at the reception of the evidence, the presiding employee or, in cases not subject to section 554(d) of this title, an employee qualified to preside at hearings pursuant to section 556 of this title, shall initially decide the

case unless the agency requires, either in specific cases or by general rule, the entire record to be certified to it for decision. When the presiding employee makes an initial decision, that decision then becomes the decision of the agency without further proceedings unless there is an appeal to, or review on motion of, the agency within time provided by rule. On appeal from or review of the initial decision, the agency has all the powers which it would have in making the initial decision except as it may limit the issues on notice or by rule. When the agency makes the decision without having presided at the reception of the evidence, the presiding employee or an employee qualified to preside at hearings pursuant to section 556 of this title shall first recommend a decision, except that in rule making or determining applications for initial licenses-

- (1) instead thereof the agency may issue a tentative decision or one of its responsible employees may recommend a decision; or
- (2) this procedure may be omitted in a case in which the agency finds on the record that due and timely execution of its functions imperatively and unavoidably so requires.
- (c) Before, a recommended, initial, or tentative decision, or a decision on agency review of the decision of subordinate employees, the parties are entitled to a reasonable opportunity to submit for the consideration of the employees participating in the decisions—
 - (1) proposed findings and conclusions; or
 - (2) exceptions to the decisions or recommended decisions of subordinate employees or to tentative agency decisions; and
 - (3) supporting reasons for the exceptions or proposed findings or conclusions.

The record shall show the ruling on each finding, conclusion, or exception presented. All decisions, including initial, recommended, and tentative decisions, are a part of the record and shall include a statement of—

- (A) findings and conclusions, and the reasons or basis therefor, on all the material issues of fact, law, or discretion presented on the record; and
- (B) the appropriate rule, order, sanction, relief, or denial thereof.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 387.)

HISTORICAL AND REVISION NOTES

In subsection (b), the word "employee" is substituted for "officer" and "officers" inview of the definition of "employee" in section 2105. The word "either" is added after the word "requires" in the first sentence to eliminate the need for parentheses. The words "the presiding employee or an employee qualified to preside at hearings under section 556 of this title" are substituted for "such officers" in the last sentence. The word "initial" is omitted before "decision", the final word in the first sentence and the sixth word of the fourth sentence, to avoid confusion between the "initial decision" of the presiding employee and the "initial decision" of the presiding employee and the "initial decision" of the agency.

In subsection (c), the word "employees" is substituted for "officers" in view of the definition of "employee" in section 2105.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report. three years, as designated by the President" are omitted as executed, existing rights being preserved by technical section 8.

In subsection (b) (1), the words "the sessions" are substituted for "such meetings" for clarity as elsewhere the word "sessions" refers to sessions of the Conference and "meetings" refers to meetings of the Council.

In subsection (c)(7), the words "subject to the civil service and classification laws" are omitted as unnecessary inasmuch as appointments in the executive branch are made subject to the civil service laws and pay is fixed under classification laws unless specifically excepted. words "and fix the pay of" are added for clarity.
Standard changes are made to conform with the defi-

nitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS This section is referred to in section 573 of this title.

§ 576. Appropriations.

There are authorized to be appropriated sums necessary, not in excess of \$450,000, to carry out the purpose of this subchapter. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 391; Pub. L. 91-164, Dec. 24, 1969, 83 Stat. 446)

WISTORICAL AND DESIGNATION NOTES

	MANUA OTTACION III	
Deriva-		Revised Statutes and
tion	U.S. Code	Statutes at Large
	5 U.S.S. 1045e	Aug. 30, 1964, Pub. L. 88-496
		§ 7, 78 Stat. 618.

'The word "hereby" is omitted as unnecessary. Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1969-Pub. L. 91-164 substituted "\$450,000 per annum" for "\$250,000"

Chapter 7.-JUDICIAL REVIEW

Sec.

701. Application; definitions. 702. Right of review

703 Form and venue of proceeding.

704. Actions reviewable. 705.

Relief pending review.

706. Scope of review.

POPULAR NAME

The provisions of sections 551-559 of this title and this chapter were originally enacted by act June 11, 1946, ch. 423, 60 Stat. 237, popularly known as the "Administrative Procedure Act". That Act was repealed as part of the general revision of this title by Pub. L. 89-554 and its provisions incorporated into sections 551-559 of this title and this chapter

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 559, 8902 of this title; title 10 section 2680; title 12 sections 1464, 1730 1730a, 1786, 1818, 1957; title 15 sections 687e, 1193; title 25 sections 372-1, 954; title 33 section 1162; title 39 sections 410, 3001, 3008, 3603; title 42 sections 263f, 3885; title 49 sections 1655, 1675

§ 701. Application: definitions.

- (a) This chapter applies, according to the provisions thereof, except to the extent that-
 - (1) statutes preclude judicial review; or
 - (2) agency action is committed to agency discretion by law.
 - (b) For the purpose of this chapter-
 - (1) "agency" means each authority of the Government of the United States, whether or not it is within or subject to review by another agency, but does not include-

- (A) the Congress;
- (B) the courts of the United States;
- (C) the governments of the territories or possessions of the United States:
- (D) the government of the District of Columbia;
- (E) agencies composed of representatives of the parties or of representatives of organizations of the parties to the disputes determined by them:
- (F) courts martial and military commissions:
- (G) military authority exercised in the field in time of war or in occupied territory; or
- (H) functions conferred by sections 1738, 1739, 1743, and 1744 of title 12; chapter 2 of title 41; or sections 1622, 1884, 1891-1902, and former section 1641(b)(2), of title 50, appendix; and
- (2) "person", "rule", "order", "license", "sanction", "relief", and "agency action" have the meanings given them by section 551 of this title. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 392.)

HISTORICAL AND REVISION NOTES

Deriva-		Revised Statutes and
tion	U.S. Code	Statutes at Large
(a)	5 U.S.C. 1009	June 11, 1946, ch. 324, § 10
	(introduc-	(introductory clause), 60
	tory clause).	Stat. 243.

In subsection (a), the words "This chapter applies, according to the provisions thereof," are added to avoid the necessity of repeating the introductory clause of former section 1009 in sections 702-706.

Subsection (b) is added on authority of section 2 of the Act of June 11, 1946, ch. 324, 60 Stat. 237, as amended, which is carried into section 551 of this title.

In subsection (b)(1)(G), the words "or naval" are omitted as included in "military".

In subsection (b)(1)(H), the words "functions which by law expire on the termination of present hostilities within any fixed period thereafter, or before July 1, 1947" are omitted as executed. Reference to the "Selective Training and Service Act of 1940" is omitted as that Act expired on Mar. 31, 1947. Reference to the "Sugar Control Extension Act of 1947" is omitted as that Act expired on Mar. 31, 1948. References to the "Housing and Rent Act of 1947, as amended" and the "Veterans' Emergency Housing Act of 1946" have been consolidated as they are re-The reference to former section 1641(b)(2) of title 50, appendix, is retained notwithstanding its repeal by § 111(a)(1) of the Act of Sept. 21, 1961, Pub. L. 87-256. 75 Stat. 538, since § 111(c) of the Act provides that a reference in other Acts to a provision of law repealed by § 111(a) shall be considered to be a reference to the appropriate provisions of Pub. L. 87-256.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 25 section 954, title 30

The source of this section is referred to in title 7 sections 2149, 2150; title 15 section 1394.

18702. Right of review.

A person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof. (Pub. L 89-554. Sept. 6, 1966, 80 Stat. 392.)

HISPORICAL AND REVISION NOTES

Deriva-		Revised Statutes and	
tion	US Code	Statutes at Large	
	5 U.S.C. 1009(a)	June 11, 1946, ch.	324
		§ 10(n), 60 Stat. 243.	

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the pretace to the report.

Section Referred to in Other Sections This section is referred to in title 25 section 954

The source of this section is referred to in title 7 sections 2149, 2150, title 15 section 1394

§ 703. Form and venue of proceeding.

The form of proceeding for judicial review is the special statutory review proceeding relevant to the subject matter in a court specified by statute or, in the absence or inadequacy thereof any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus, in a court of competent jurisdiction. Except to the extent that prior, adequate, and exclusive opportunity for judicial review is provided by law, agency action is subject to judicial review in civil or criminal proceedings for judicial enforcement. (Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 392.)

HISTORICAL AND REVISION NOTES

Deriva-		Revised	Statut	es and	1
tion	U.S. Code	Statutes at Large			
	5 U.S.C. 1009(b)	June 11.	1946.	ch.	324
		8 10(b) (30 Stat	243	

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 25 section 954.

The source of this section is referred to in title 7 sections 2149, 2150, and title 15 section 1394.

§ 704. Actions reviewable.

Agency action made reviewable by statute and final agency action for which there is no other adequate remedy in a court are subject to judicial review. A preliminary, procedural, or intermediate agency action or ruling not directly reviewable is subject to review on the review of the final agency action. Except as otherwise expressly required by statute, agency action otherwise final is final for the purposes of this section whether or not there has been presented or determined an application for a declaratory order, for any form of reconsiderations. or, unless the agency otherwise requires by rule and provides that the action meanwhile is inoperative, for an appeal to superior agency authority. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 392.)

HISTORICAL AND REVISION NOTES

Deriva-		Revised Statutes and	
tion	U.S. Code	Statutes at Large	
	5 U.S.C. 1009(c)	June 11, 1946, ch. 324	
		8 10(a) 60 Stat 2/2	

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface of this report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 25 section 954.

The source of this section is referred to in title 7 sections 2149, 2150 and title 15 section 1394.

§ 705. Relief pending review.

When an agency finds that justice so requires, it may postpone the effective date of action taken by it, pending judicial review. On such conditions as may be required and to the extent necessary to prevent irreparable injury, the reviewing court, including the court to which a case may be taken on appeal from or on application for certiorari or other writ to a reviewing court, may issue all necessary and appropriate process to postpone the effective date of an agency action or to preserve status or rights pending conclusion of the review proceedings. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 393.)

HISTORICAL AND REVISION NOTES

Deriva-		Revised Statutes and		
tion	U.S. Code	Statutes at Large		
	5 U.S.C. 1009(d)	June 11, 1946, ch.	324	
		§ 10(d), 60 Stat. 243		

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface of this report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 1262; title 25 section 954.

The source of this section is referred to in title 7 sections 2149, 2150 and title 15 section 1394.

§ 706. Scope of review.

privilege, or immunity;

- To the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall—
 - (1) compel agency action unlawfully withheld or unreasonably delayed; and
 - (2) hold unlawful and set aside agency action, findings, and conclusions found to be—
 - (A) arbitrary, capricious, an abuse of discre-
 - tion, or otherwise not in accordance with law;
 (B) contrary to constitutional right, power,
 - (C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory
 - (D) without observance of procedure required by law;
 - (E) unsupported by substantial evidence in a case subject to sections 556 and 557 of this title or otherwise reviewed on the record of an agency hearing provided by statute; or
 - (F) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 393.)

HISTORICAL AND REVISION NOTES

Deriva-		Revised Statutes and
tion	U.S. Code	Statutes at Large
	5 U.S.C. 1009(e)	June 11, 1946, ch. 324

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface of this report. Page 227

HISTORICAL AND REVISION NOTES-Continued

1966 Acr-Continued

Deriva-		Revised Statutes and
tion	U.S. Code	Statutes at Large
(p)	5 U.S.C. 1162 (c).	Oct. 4, 1961, Pub. L. 87-367, § 202 "Sec. 2(c)", 75 Stat.
(c)	5 U.S.C. 1163	Oct. 4, 1961, Pub. L. 87-367,

In subsection (a), the authority to fix pay is omitted

and carried into section 5361.

In subsection (b), the words "subsequent to February 1, 1958" appearing in former section 1162(c) are omitted as obsolete

The Act of Aug. 1, 1947, ch. 433, 61 Stat. 715, as amended by the following Acts is omitted from the derivation and repealed (see Table II) as superseded by the Act of Octs 4, 1961, Pub. L. 87-367, § 202, 75 Stat. 789, which is carried into this section and sections 3325 and 5361:

June 24, 1948, ch. 624, 62 Stat. 604. July 13, 1949, ch. 332, 63 Stat. 410

July 31, 1956, ch. 804 § 501(a), 70 Stat. 761. Aug. 10, 1956, ch. 1041, § 28, 70A Stat. 631.

June 20, 1958, Pub. L. 85-462, § 12(a) -(d), 72 Stat. 213A. Sept. 23, 1959, Pub. L. 86-370, § 4, 73 Stat. 651.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 Acr

Source (U.S. Section of Code)

Source (Statutes at Large) July 5, 1966, Pub. L. 89-492 3104(a)(5) 5 App.: 1161(e) § 5, 80 Stat. 262

The amendment to 5 U.S.C. 3104 (a) (5) reflects Public Law 89-492, section 5,

The other amendments to 5 U.S.C. 3104 are based on section 302 of the act of July 20, 1958, Public Law 85-568 (72 Stat. 433), 42 U.S.C. 2453, and transfer plan, effective March 15, 1960, 25 Federal Register 2151, section (2) (a) (2), (b) of which in effect transferred from the Depart ment of Defense to the National Aeronautics and Space Administration 12 of the 450 scientific and professional positions authorized by section 2 of Public Law 86-377 (10 U.S.C. 1581). Provisions relating to the date for reporting to Congress are based on 10 U.S.C. 1582.

AMENDMENTS

1970-Subsec. (a) (5). Pub. L. 91-375 repealed provision for employment in Post Office Department in scientific or professional positions of not more than 6 qualified individuals

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors of the United States Postal Service and published by it in the Federal Register, see section 15 (a) of Pub. L. 91-375, set out as a note preceding section 101 of Title 39, Postal Service

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of Commerce and other offices and officers of the Department of Commerce under the Act of August 1, 1947, as amended, now covered by this section, to the extent that such Act authorized scientific and professional positions relating primarily to functions transferred to the Secretary of Transportation by section 1655(a) of Title 49, Transportation, were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation See section 1655(a)(5) of Title 43, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS This section is referred to in sections 3325, 5361 of this title.

§ 3105. Appointment of hearing examiners.

Each agency shall appoint as many hearings examiners as are necessary for proceedings required to be conducted in accordance with sections 556 and 557 of this title. Hearing examiners shall be assigned to cases in rotation so far as practicable, and may not perform duties inconsistent with their duties and responsibilities as hearing examiners. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 415.)

HISTORICAL AND REVISION NOTES

Deriva-		Revised Statutes and
tion	. U.S. Code	Statutes at Large
	5 U.S.C. 1010	June 11, 1946, ch. 324, §11
	(1st sen-	(1st sentence), 60 Stat.
	tence).	244.

The words "Subject to the civil service" are omitted as unnecessary inasmuch as appointments are made subject to the civil service laws unless specifically excepted. words "and other laws not inconsistent with this chapter" are omitted as unnecessary because of the organization of this title

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

HEARING EXAMINERS EMPLOYED BY DEPARTMENT OF AGRICULTURE

Functions vested by former section 1001 et seq. [now section 551 et seq. | of this title in hearing examiners employed by the Department of Agriculture were not included in the transfer of functions of officers, agencies, and employees of the Department of Agriculture made by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to this title.

HEARING EXAMINERS EMPLOYED BY DEPARTMENT OF COMMERCE

Functions vested by former section 1001 et seq. [now section 551 et seq. of this title in hearing examiners employed by the Department of Commerce were not included in the functions of officers, agencies, and employees of that Department which were transferred to the Secretary of Commerce by 1950 Reorg. Plan No. 5, § 1, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263, set out in the Appendix to this title

HEARING EXAMINERS EMPLOYED BY DEPARTMENT OF THE INTERIOR

Functions vested by former section 1001 et seq. [now section 551 et seq.] of this title in hearing examiners employed by the Department of the Interior were not included in the transfer of functions of officers, agencies and employees of the Department of the Interior to the Secretary of the Interior, made by 1950 Reorg. Plan No. 3, § 1, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to this title.

HEARING EXAMINERS EMPLOYED BY DEPARTMENT OF JUSTICE

Functions vested by former section 1001 et seq. [now section 551 et seq.] of this title in hearing examiners employed by the Department of Justice were not included in the transfer of functions of officers, agencies and employees of the Department of Justice to the Attorney General, made by 1950 Reorg. Plan No. 2, § 1, eff. May 24 1950, 15 F.R. 3173, 64 Stat. 1261, set out in the Appendix to this title

HEARING EXAMINERS EMPLOYED BY DEPARTMENT OF LABOR

Functions vested by former section 1001 et seq. [now section 551 et seq.] of this title in hearing examiners employed by the Department of Labor were not included in the transfer of functions of officers, agencies, and employees of the Department of Labor to the Secretary of Labor, made by 1950 Reorg. Plan No. 6, § 1, eff. May 24. 1950, 15 F.R. 3174, 64 Stat. 1263, set out in the Appendix to this title.

HEARING EXAMINERS EMPLOYED BY DEPARTMENT OF THE TREASURY

Functions vested by former section 1001 et seq. [now section 551 et seq.] of this title in hearing examiners employed by the Department of the Treasury were not included in the transfer of functions of officers, agencies and employees of the Department of the Treasury to the Secretary of the Treasury, made by 1950 Reorg. Plan No. 26, § 1, eff. July 31, 1950, 16 F.R. 4935, 64 Stat. 1280, set out in the Appendix to this title

HEARING EXAMINERS APPOINTED FOR INDIAN PROBATE WORK Hearing examiners appointed for Indian probate work need not be appointed pursuant to this section, see section 372-1 of Title 25, Indians.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 554, 556, 659, 1305, 3344, 4301, 5108, 5335, 5362, 7521 of this title, title 15 section 1715; title 30 section 804; title 43 section 808.

§ 3106. Employment of attorneys; restrictions.

Except as otherwise authorized by law, the head of an Executive department or military department may not employ an attorney or counsel for the conduct of litigation in which the United States, an agency, or employee thereof is a party, or is interested, or for the securing of evidence therefor, but shall refer the matter to the Department of Justice. This section does not apply to the employment and payment of counsel under section 1037 of title 10. (Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 415.)

HISTORICAL AND REVISION NOTES

Deriva- tion	U.S. Code	Revised Statutes and Statutes at Large
	5 U.S.C. 49	R.S. § 189 Sept. 2, 1958, Pub. L. 85-861,
	5 U.S.C. 314	§ 7(a), 72 Stat. 1556. R.S. § 365 Sept. 2, 1958, Pub. L. 85–861,
		6 7(b) . 72 Stat. 1655.

Sections 189 and 365 of the Revised Statutes, as amended, are combined and the section is revised to express the effect of the law since department heads have long employed, with the approval of Congress, attorneys to advise them in the conduct of their official duties. The law which concentrates the authority for the conduct of litigation in the Department of Justice is codified in section 516 of title 28 by this bill.

The words "Executive department" are substituted for "department" as the definition of "department" applicable to R.S. § 189 is coextensive with the definition of "Executive department" in section 101. The words "or military department" are inserted to preserve the application of the source law. Before enactment of the National Security Act Amendments of 1949 (63 Stat. 578), the Department of the Army, the Department of the Navy, and the Department of the Air Force were Executive depart-The National Security Act Amendments of 1949 established the Department of Defense as an Executive Department including the Department of the Army, the Department of the Navy, and the Department of the Air Force as military departments, not as Executive departments. However, the source law for this section, which was in effect in 1949, remained applicable to the Secretaries of the military departments by virtue of section 12(g) of the National Security Act Amendments of 1949 (63 Stat. 591), which is set out in the reviser's note for section 301

R.S. § 189 was part of title IV of the Revised Statutes. The Act of July 26, 1947, ch. 343, § 201(d), as added Aug. 1, 1949, ch. 412, § 4, 63 Stat. 579 (former 5 U.S.C. 171-1), which provides "Except to the extent inconsistent with the provisions of this Act [National Security Act of 1947], the provisions of title IV of the Revised Statutes as now or hereafter amended shall be applicable to the Department of Defense" is omitted from this title but is not repealed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 3107. Employment of publicity experts; restrictions.

Appropriated funds may not be used to pay a publicity expert unless specifically appropriated for that purpose. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 416.)

HISTORICAL AND REVISION NOTES

Revised Statutes and
Statutes at Large
Oct. 22, 1913, ch. 32, § 1 (last par under "Interstate
Commerce Commission"), 38 Stat. 212.

The prohibition is restated in positive form. Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 3108. Employment of detective agencies; restrictions.

An individual employed by the Pinkerton Detective Agency, or similar organization, may not be employed by the Government of the United States or the government of the District of Columbia. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 416.)

HISTORICAL AND REVISION NOTES

Deriva-		Revised Statutes and
tion	U.S. Code	Statutes at Large
	5 U.S.C. 53	Mar. 3, 1893, ch. 208 (5th par under "Public Buildings"), 27 Stat. 591

The prohibition is restated in positive form.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 3109. Employment of experts and consultants; temporary or intermittent.

- (a) For the purpose of this section-
- (1) "agency" has the meaning given it by section 5721 of this title; and
- (2) "appropriation" includes funds made available by statute under section 849 of title 31.
- (b) When authorized by an appropriation or other statute, the head of an agency may procure by contract the temporary (not in excess of 1 year) or intermittent services of experts or consultants or an organization thereof, including stenographic reporting services. Services procured under this section are without regard to—
 - (1) the provisions of this title governing appointment in the competitive service;
 - (2) chapter 51 and subchapter III of chapter 53 of this title: and
- (3) section 5 of title 41, except in the case of stenographic reporting services by an organization

However, an agency subject to chapter 51 and subchapter III of chapter 53 of this title may pay a rate for services under this section in excess of the daily equivalent of the highest rate payable under section 5332 of this title only when specifically authorized by the appropriation or other statute authorizing the procurement of the services. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 416.)

HISTORICAL AND REVISION NOTES

Deriva-		Revised Statutes and	
tion .	U.S. Code	Statutes at Large	
	5 U.S.C. 55a	Aug. 2, 1946, ch. 744, § 15, 6 Stat. 810.	C

In subsection (a), the definitions of "agency" and "appropriation" are added on authority of the Act of Aug. 2, 1946, ch. 744, § 18, 60 Stat. 811.

In subsection (b), the words "the provisions of this title governing appointment in the competitive service" are substituted for "the civil-service laws". The words "chapter 51 and subchapter III of chapter 53 of this title" are substituted for the reference to the classification laws

part of the pay, travel expenses, and allowances payable during the detail, and the reimbursement shall be credited to the appropriation, fund, or account used for paying the amounts reimbursed.

(e) An employee detailed under subsection (b) of this section may be paid or reimbursed by an international organization for allowances or expenses incurred in the performance of duties required by the detail, without regard to section 209 of title 18 (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 425; Pub. L. 91-175, pt. V. § 502(a), Dec. 30, 1969, 83 Stat. 825.)

HISTORICAL AND REVISION NOTES

Deriva-		Revised Statutes and	
tion	U S. Code	Statutes at Large	
(a)	5 U.S.C. 2331	Aug. 28, 1958, Pub. L.	85-
		795, § 2, 72 Stat. 959.	
(b)-(e)	5 U S.C. 2332	Aug. 28, 1958. Pub. L.	85 -
		795, § 3, 72 Stat 959	

In subsection (a)(2), the words "without a change of position from the agency by which he is employed to an international organization" are substituted for "without the employee's transfer from the Federal agency by which he is employed" to eliminate the necessity of carrying into this section the definition of "transfer" appearing in former section 2331(5).

In subsection (e), the words "section 209 of title 18" are substituted for "section 1914 of title 18" on authority of the Act of Oct. 23, 1962, Pub. L. 87-849, § 2, 76 Stat. 1126.

Other definitions appearing in former section 2331 are omitted from this section as inappropriate but are carried into section 3581.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1969—Subsec. (b). Pub. L. 91-175 substituted "5" for "3" and added provision enabling President, regarding an agency employee detailed to an international organization for 5 years, to extend the 5-year period for up to an additional 3 years

DETAILS TO INTERNATIONAL ORGANIZATIONS

For provisions concerning the providing for details of federal employees to international organizations and the delegation of Presidential authority, concerning the extension of a detail under this section, to the Secretary of State, see Ex. Ord. No. 11552, Aug. 24, 1970, 35 F.R. 13569, set out as a note under section 3584 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3582 and 3584 of this title.

§ 3314. Details; hearing examiners.

An agency as defined by section 551 of this title which occasionally or temporarily is insufficiently staffed with hearing examiners appointed under section 3105 of this title may use hearing examiners selected by the Civil Service Commission from and with the consent of other agencies. (Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 425.)

HISTORICAL AND REVISION NOTES

Deriva-		Revised Statutes and
tion	U.S. Code	Statutes at Large
	5 U.S.C. 1010	June 11, 1946, ch. 324, § 11
	(4th sen-	(4th sentence), 60 Stat.
	tence).	244.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 559, 1305 of this title and in title 15 section 1715.

§ 3345. Details; to office of head of Executive or military department.

When the head of an Executive department or military department dies, resigns, or is sick or absent, his first assistant, unless otherwise directed by the President under section 3347 of this title, shall perform the duties of the office until a successor is appointed or the absence or sickness stops. (Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 425.)

HISTORICAL AND REVISION NOTES

Deriva-		Revised Statutes and
tion	U.S. Code	Statutes at Large
	5 II S C 4	D C 8 177

The words "Executive department" are substituted for "department" as the definition of "department" applicable to this section is coexiensive with the definition of "Executive department" in section 101.

The words "or military department" are inserted to preserve the application of the source law. Before enactment of the National Security Act Amendments of 1949 (63 Stat. 578), the Department of the Army, the Department of the Navy, and the Department of the Air Force were Executive departments. The National Security Act Amendments of 1949 established the Department of Defense as an Executive Department including the Department of the Army, the Department of the Navy, and the Department of the Air Force as military departments, not as Executive departments. However, the source law for this section, which was in effect in 1949, remained applicable to the Secretaries of the military departments by virtue of section 12(g) of the National Security Act Amendments of 1949 (63 Stat. 591), which is set out in the reviser's note for section 301

This section was part of title IV of the Revised Statutes. The Act of July 26, 1947, ch. 343, \$201(d), as added Aug. 10, 1949, ch. 412, \$4, 63 Stat. 579 (former 5 U.S.C. 171-1), which provides "Except to the extent inconsistent with the provisions of this Act [National Security Act of 1947], the provisions of title IV of the Revised Statutes as now or hereafter amended shall be applicable to the Department of Defense" is omitted from this title but is not repealed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3347, 3348, 3349, 5535 of this title and in title 7 section 2211; title 28 section 508.

§ 3346. Details; to subordinate offices.

When an officer of a bureau of an Executive department or military department, whose appointment is not vested in the head of the department, dies, resigns, or is sick or absent, his first assistant, unless otherwise directed by the President under section 3347 of this title, shall perform the duties of the office until a successor is appointed or the absence or sickness stops. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 426.)

HISTORICAL AND REVISION NOTES

Deriva-		Revised Statutes and
tion	U.S.Code	Statutes at Large
	5 U.S.C. 5	R.S. § 178.

The words "his first assistant" are substituted for "the assistant or deputy of such chief or of such officer, or if there be none, then the chief clerk of such bureau". A chief of a bureau is an officer within the meaning of this section. The words "Executive department" are substituted for "department" as the definition of "department" applicable to this section is coextensive with the definition of "Executive department" in section 101.

The prohibition is restated in positive form.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5356. Appropriations.

Funds appropriated to an agency for expenses of its hospitals, clinics, and laboratories to which student-employees are assigned or attached are available to carry out the provisions of this subchapter. (Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 472.)

HISTORICAL AND REVISION NOTES

Deriva-	Revised Statutes and					
tion	U.S. Code	. Statutes at Large				
	5 U.S.C. 1058	Aug. 4, 1947, ch. 452, § 9, 61 Stat. 728.				

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SUBCHAPTER VI.—MISCELLANEOUS PROVISIONS

§ 5361. Scientific and professional positions.

Subject to the approval of the Civil Service Commission, the head of the agency concerned shall fix the annual rate of basic pay for scientific and professional positions established under section 3104 of this title at not less than the minimum rate for GS-16 nor more than the maximum rate for GS-18. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 473.)

HISTORICAL AND REVISION NOTES

Deriva-		Revised Statutes and			
tion .	U.S. Code	Statutes at Large			
	5 U.S.C. 1162	Oct. 4, 1961, Pub. L. 87-367,			
	(p)	§ 202 "Sec. 2(b)", 75 Stat.			
		790.			

The authority to fix rates of pay is added on authority of former section 1161, which is carried into section 3104 For repeal of the Act of Aug. 1, 1947, ch. 433, 61 Stat. 715, as amended, see revision note for section 3104

§ 1001(a)(1), 76 Stat. 863.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3104 of this title.

§ 5362. Hearing examiners.

Hearing examiners appointed under section 3105 of this title are entitled to pay prescribed by the Civil Service Commission independently of agency recommendations or ratings and in accordance with subchapter III of this chapter and chapter 51 of this title. (Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 473.)

HISTORICAL AND REVISION NOTES

		101101011 1101110	
Deriva-		Revised Statutes and	
tion	U.S. Code	Statutes at Large	
•	5 U.S.C. 1010 (3d sen- tence).	June 11, 1946, ch. 324, § 11 (3d sentence), 60 Stat. 244.	

The exception from the operation of the efficiency rating system is omitted as covered by sections 4301(2)(E) and 5335(a)(B). The reference to "subchapter III of this chapter and chapter 51 of this thie" is substituted for "the Classification Act of 1923, as amended" on authority of section 1106(a) of the Act of Oct. 28, 1949, ch. 782, 63 Stat. 972.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report. SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 559, 1305 of this title and in title 15 section 1715; title 42 section 3608

§ 5363. Limitation on pay fixed by administrative action.

Except as provided by the Government Employees Salary Reform Act of 1964 (78 Stat. 400) and not-withstanding the provisions of other statutes, the head of an Executive agency or military department who is authorized to fix by administrative action the annual rate of basic pay for a position or employee may not fix the rate at more than the maximum rate for GS-18. This section does not Impair the authorities provided by—

- (1) section 121 of title 2, Canal Zone Code (76A Stat. 15);
 - (2) sections 248, 481, and 1819 of title 12:
 - (3) section 831b of title 16; or
- (4) sections 403a—403c, 403e—403h, and 403j of title 50.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 473.)

HISTORICAL AND REVISION NOTES

Deriva-	U.S. Code			Revised Statutes and Statutes at Large
11011	,	U.S. CO	WE.	Blututes ut Luige
	5	U.S.C.	2212	Aug. 14, 1964, Pub. L. 88-426,
				§ 308, 78 Stat. 432.
				Oct. 6, 1964, Pub. L. 88-631,
				§ 3(e), 78 Stat. 1008

The words "head of an Executive agency or military department" are coextensive with and substituted for "head of any executive department, independent establishment, or agency in the executive branch" because of the definitions in sections 102 and 105.

Standard changes are made to conform to the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

For classification in the Code of the Government Employees Salary Reform Act of 1964 (78 Stat. 400), referred to in the text, see Distribution Tables.

§5364. Miscellaneous positions in the executive branch.

The head of the agency concerned shall fix the annual rate of basic pay for each position in the executive branch specifically referred to in, or covered by, a conforming change in statute made by section 305 of the Government Employees Salary Reform Act of 1964 (78 Stat. 422), or other position in the executive branch for which the annual pay is fixed at a rate of \$18,500 or more under special provision of statute enacted before August 14, 1964, which is not placed in a level of the Executive Schedule set forth in subchapter II of this chapter, at a rate equal to the pay rate of a grade and step of the General Schedule set forth in section 5332 of this title. The head of the agency concerned shall report each action taken under this section to the Civil Service Commission and publish a notice thereof in the Federal Register, except when the President determines that the report and publication would be contrary to the interest of national security. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 473.)

HISTORICAL AND REVISION NOTES

Deriva- tion	U.S. Code	Revised Statutes and Statutes at Large			
	5 U.S.C. 2213	Aug. 14, 1964, Pub. L. 88-426, 6 309, 78 Stat, 433			

The word "office" is omitted as included in "position". The words "before August 14, 1964" are substituted for

ject to the broad guidelines contained in the regulations, each department and agency is authorized to develop such agency appeals procedures as may be appropriate

to its own organizational requirements SEC. 2. (a) The Civil Service Commission shall, not later than April 1, 1962, issue regulations to put this order into effect and shall make a continuing review of the manner in which this order is being implemented by the

departments and agencies.

Nothing in this order shall be deemed to enlarge or restrict the authority of the Civil Service Commission adjudicate appeals submitted in accordance with Chapter I of Title 5 of the Code of Federal Regulations

SEC. 3. The Civil Service Commission in issuing regulations and the departments and agencies in developing an

- appeals system shall be guided by the following principles:

 (1) The appeals system shall be a simple, orderly method through which an employee or former employee may seek timely administrative reconsideration of a decision to take adverse action against him
- (2) Employees and representatives of employee organizations shall have an opportunity to express their views as to the formulation and operation of the appeals pro-
- (3) An appeal shall be in writing and indicate clearly the corrective action sought and the reasons therefor.

 (4) The system shall provide ordinarily for one level
- of appeal, except that it may include further administrative review when the delegations of authority or organi-
- zational arrangements of the agency so require

 (5) An employee who has not previously had an opportunity for a hearing in connection with the agency decision to take adverse action shall, on his request, be granted one hearing, except when the helding of a hear-ing is impracticable by reason of unusual location or other extraordinary circumstance.
- (6) The employee shall be assured freedom from restraint, interference, coercion, discrimination, or reprisal in presenting his appeal.
- (7) The employee shall have the right to be accompanied, represented, and advised by a representative of his own choosing in presenting his appeal.
- The employee shall be assured of a reasonable amount of official time to present his appeal
- (9) An appeal shall be resolved expeditiously. To this id, both the employee and the department or agency
- shall proceed with an appeal without undue delay.

 SEC. 4. The head of each department and agency is authorized to include provision for advisory arbitration, where appropriate, in the agency appeals systems
- where appropriate, in the agency appears systems. SEC. 5. (a) This order shall not apply to the Central Intelligence Agency, the National Security Agency, the Federal Bureau of Investigation, the Atomic Energy Commission, and the Tennessee Valley Authority.
- (b) The Civil Service Commission, on the recommendation of the heads of the agencies concerned, may exclude classes of employees the nature of whose work makes the application of the provisions of this order inappropriate

Sec. 6 This order shall become effective as to all adverse actions commenced by issuance of a notification of proposed action on or after July 1, 1962.

JOHN F. KENNEDY

SUBCHAPTER II.—PREFERENCE ELIGIBLES

§ 7511. Definitions.

For the purpose of this subchapter-

(1) "preference eligible employee" means a permanent or indefinite preference eligible who has completed a probationary or trial period as an employee of an Executive agency or as an individual employed by the government of the District of Columbia, but does not include an employee whose appointment is required by Congress to be confirmed by, or made with the advice and consent of, the Senate, except an employee whose appointment is made under section 3311 of title 39; and

(2) "adverse action" means a removal, suspension for more than 30 days, furlough without pay, or reduction in rank or pay.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 528.)

HISTORICAL AND REVISION NOTES

The section is supplied on authority of sections 2, 14 and 20 of the Act of June 27, 1944, ch. 287, 58 Stat. 387. 390, and 391, which are carried into this title.

In paragraph (2), the word "removal" is coextensive with and substituted for "discharge".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7501, 7701 of this title and in title 32 section 709.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623, of the District of Columbia Code

§ 7512. Cause; procedure; exception.

- (a) An agency may take adverse action against a preference eligible employee, or debar him for future appointment, only for such cause as will promote the efficiency of the service.
- (b) A preference eligible employee against whom adverse action is proposed is entitled to-
 - (1) at least 30 days' advance written notice, except when there is reasonable cause to believe him guilty of a crime for which a sentence of imprisonment can be imposed, stating any and all reasons, specifically and in detail, for the proposed action;
 - (2) a reasonable time for answering the notice personally and in writing and for furnishing affidavits in support of the answer; and
 - (2) a notice of an adverse decision.
- (c) This section does not apply to the suspension or removal of a preference eligible employee under section 7532 of this title. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 528.)

HISTORICAL AND REVISION NOTES

Deriva-	Revised Statutes and				
tion	U.S. Code	Statutes at Large			
	5 U S C. 863 (1st 168	June 27, 1944, ch. 287, § 14 (1st 168 words), 58 Stat			
	words).	390.)			

The application of this section is covered by the definitions in sections 105, 2105, 2108, and 7511.

Subsection (b)(3) is added on authority of the last 24 words before the first proviso in former section 863, which is carried in part into this section and section 7701

Subsection (c) is added on authority of the first 16 words of former section 22-1, which is carried in part into section 7532.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3315, 7701 of this title and in title 32 section 709.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

SUBCHAPTER III.—HEARING EXAMINERS

A hearing examiner appointed under section 3105 of this title may be removed by the agency in which he is employed only for good cause established and Page 409

determined by the Civil Service Commission on the record after opportunity for hearing. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 528.)

HISTORICAL AND REVISION NOTES

Derma-Revised Statutes and tion U.S. Code Statutes at Large 5 U.S.C. 1010 June 11, 1946, ch 324, § 11 (2d sentence). (2d sentence), 60 Stat. 244.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 559, 1305 of this title and in title 15 section 1715; title 39 section 3601; title 42 section 3608.

SUBCHAPTER IV.—NATIONAL SECURITY

§ 7531. Definitions.

For the purpose of this subchapter, "agency" means

- (1) the Department of State;
- (2) the Department of Commerce;
- (3) the Department of Justice:
- (4) the Department of Defense;
- (5) a military department;
- (6) the Coast Guard;
- (7) the Atomic Energy Commission;
- (8) the National Aeronautics and Space Administration; and
- (9) such other agency of the Government of the United States as the President designates in the best interests of national security

The President shall report any designation to the Committees on the Armed Services of the Congress. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 528.)

> HISTORICAL AND REVISION NOTES Revised Statutes and

Derivation U.S. Code Statutes at Large 5 U.S.C. 22-3 Aug. 26, 1950, ch. 823, § 3, 64 Stat. 477

Paragraphs (1) -(8) are supplied on authority of former section 22-1, which is carried in part into section 7532. The references to "the Foreign Service of the United and "several field services" are omitted as unnecessary since they are within the agencies concerned.
The words "military departments" are substituted for
the enumeration of the military departments in view of the definition of "military department" in section 102 The reference to the National Security Resources Board

is omitted as the Board was abolished by 1953 Reorg. Plan No. 3, § 6, eff. June 12, 1953, 67 Stat. 636.

Paragraph (9) is restated to conform to the style of this title.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

PANAMA CANAL AND PANAMA RAILROAD COMPANY

Ex. Ord. No. 10237, Apr. 27, 1951, 16 F.R. 3627, makes the provisions of former sections 22-1 and 22-3 of this title [see Distribution Tables] applicable to the Panama Canal Government and to the Panama Canal Company.

§ 7532. Suspension and removal.

(a) Notwithstanding other statutes, the head of an agency may suspend without pay an employee of his agency when he considers that action necessary in the interests of national security. To the extent that the head of the agency determines that the interests of national security permit, the suspended employee shall be notified of the reasons for the suspension. Within 30 days after the notification, the suspended employee is entitled to submit to the official designated by the head of the agency statements or affidavits to show why he should be restored to duty

6 7533

- (b) Subject to subsection (c) of this section, the head of an agency may remove an employee suspended under subsection (a) of this section when, after such investigation and review as he considers necessary, he determines that removal is necessary or advisable in the interests of national security. The determination of the head of the agency is final.
- (c) An employee suspended under subsection (a) of this section who-
 - (1) has a permanent or indefinite appointment;
 - (2) has completed his probationary or trial period; and
 - (3) is a citizen of the United States;
- is entitled, after suspension and before removal, to-(A) a written statement of the charges against him within 30 days after suspension, which may be amended within 30 days thereafter and which shall be stated as specifically as security considerations permit;
 - (B) an opportunity within 30 days thereafter, plus an additional 30 days if the charges are amended, to answer the charges and submit
 - (C) a hearing, at the request of the employee, by an agency authority duly constituted for this purpose;
 - (D) a review of his case by the head of the agency or his designee, before a decision adverse to the employee is made final; and
 - (E) a written statement of the decision of the head of the agency.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 529.)

HISTORICAL AND REVISION NOTES Revised Statutes and Deriva-U.S. Code Statutes at Large tion Aug. 26, 1950, ch. 803, § 1 5 U.S.C. 22-1 (less 3d-5th provisos), 64 Stat. 476. (less 3d-5th provisos). July 29, 1958, Pub. L 85-568, § 301(c), 72 Stat. 432

The application of this section is covered by the definition in section 7531

In subsection (a), the words "Notwithstanding the provisions of section 652 of this title" are omitted but carried into section 7501(c). The words "in his absolute discretion" are omitted as unnecessary in view of the The word "reinstated" is permissive grant of authority omitted as it is commonly used in other statutes to de-

note action different from that referred to here.
In subsections (b) and (c), the words "remove" and "removal" are coextensive with and substituted for "ter-

minate the employment", "termination", and "employment is terminated", as appropriate.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3571, 7312, 7501, 7512 of this title.

\$ 7533. Effect on other statutes.

This subchapter does not impair the powers vested in the Atomic Energy Commission by chapter 23 of title 42, or the requirement in section 2201(d) of

FOR DISCUSSION ONLY 1-FIRST WORKING DRAFT, UNIFORM CRIME VICTIMS COM-PENSATION ACT, NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

(The ideas and conclusions herein set forth, including drafts of proposed legislation, if any, have not been passed upon by the Commissioners on Uniform State Laws. They do not necessarily reflect the views of the Committee, Reporters or Commissioners. Proposed statutory language, if any, may not be used to ascertain legislative meaning of any promulgated final law.)

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AMENDING MEMORANDUM

Pg. 1, Line 11: such [victims of crime.] such persons.

Explanation: Professor Rothstein pointed out in his excellent and thorough analysis of our draft that in this section the word "victim" seems to include dependents, but in other sections these are separate classifications.

Pg. 1, Line 13: for such [victims of crime.] such persons. Explanation: Identical to preceding change.

Pg. 1, Line 23: losses resulting from failure thereof where failure to provide such compensation will result in undue financial hardship.

Explanation: If the modification suggested for pg. 10, lines 264 and 266 is accepted, the need of the applicant becomes a factor, as is true in California.

Pg. 1, Line 25, pg. 2, line 26: the "cooperation and assistance of the public in law enforcement [;" California immediately limits its purpose to helping "those needy residents of the State"."

Explanation: If the modification suggested for pg. 10, lines 264 and 266 is accepted, our draft adopts the need test as it exists in California.

Pg. 2, Line 37 through 44: The definition of crime will have to be substantially reworked. Explanation: Professor Rothstein has identified problems respecting the effect

of "defenses" as referred to in the statute and also has properly criticized the reference to the use of automobiles as inartistic. Further, attempts must be cov-

ered in some fashion.

In view of the provisions of the Federal Bill [Senate Bill 2994], particularly § 458 it may be desirable to depart from the policy reflected in our first draft. That policy, expressed in this definition to reject the approach taken in the Federal Bill, that of identifying particular crimes which are covered. Note that the Federal Bill has a list, but item (17) in the list is a catchall. New Jersey's recent statute, adopted after our draft was prepared, provides in § 11 that compensation may be ordered for injury or death resulting from:

(a) an attempt to prevent the commission of a crime or to arrest a suspected

criminal or in aiding or attempting to aid a police officer so to do; or

(b) the commission or attempt to commit any of the following offenses:

1. assault constituting a high misdemeanor;

2. mayhem;

3. threats to do bodily harm;

4. lewd, indecent, or obscene acts; 2

5. indecent act with children;

6. kidnapping;

7. murder;

8. manslaughter;

9. rape:

10. any other crime involving violence.

Pg. 3, Line 73: physical injury or death as a [direct] result of a crime.

as including mental or nervous shock.]

¹ This Draft and the Amending Memorandum following are reproduced at the request of the Subcommittee on Criminal Laws and Procedure of the Senate Judiclary Committee and by permission of the Executive Secretary of the National Conference of Commissioners on Uniform State Laws.

² [In connection with this item, consider the impact of the statute's definition of injury sections with the propose shock.]

Explanation: As is mentioned in connection with some later provisions of the statute, the use of the word direct may prove to be an unnecessarily strict limitation. See Professor Rothstein's article cited below for page 7, line 165.

Pg. 6, Line 159: a hearing or extensive administrative procedures, an extensive

hearing or extensive administrative procedures.

Explanation: Professor Rothstein comments regarding the original version that denial of an award without a hearing would raise constitutional issues. Pg. 7, Line 165: (b) Any dependent of the victim of a crime who died as a <code>[direct]</code> result.

Explanation: Professor Rothstein criticizes the requirement of direct connection. See his article, "State Compensation for Criminally Inflicted Injuries," 44 Texas L. Rev. 38, 40 (1965).

Pg. 7, Line 168: a [direct] result of either....

Explanation: Same as immediately foregoing.

Pg. 7, Lines 164 through 171: There is a conflict between the compensation to the victim and dependents, predicated on actual occurrence of a crime, and subsection (c). If the definition of crime is changed to include attempts, the problem may be eliminated.

Explanation: Professor Rothstein is the source of this criticism.

Pg. 7. Line 175: living with the offender as a member of his family or household....

Explanation: The word "family" is vague and not defined in the statute. Unless there are circumstances in which inclusion of a reference to family is important, elimination of the word does not seem significant.

Pg. 7, Line 178: any member of the [family] of such person, any member of

the household of such person.

Explanation: Same as for the immediately preceding change. Again, Professor Rothstein has called attention to this defect in the original version.

Pg. 7, lines 212 and 213: In any case in which a person is injured or killed by any act or omission of another person constituting a crime under this Act... In any case in which compensation is authorized by this Act...

Explanation: Prof. Rothstein points out that the original version of the Act does not track with persons elsewher defined as entitled to compensation.

Pg. 8, Lines 216 through 218: For the purposes of this Act, a person shall be deemed to have intended an act or emission notwithstanding that by reason of age, insanity, drunkenness, or otherwise he was legally incapable of forming a criminal intent. Insofar as intent is a factor in any criminal conduct, the existence of that intent shall not be precluded solely because of insanity or other incompetence of the actor.

Explanation: Professor Rothstein points out that the original version of the Act accomplishes more than was intended, because deeming an intent to exist

in certain careless acts is not what is designed.

Pg. 9, Lines 225 through 228: No order shall be made under this section unless the board is satisfied, on a balance of probabilities,

L(a) That there was an act or omission, and

(b) That the injury or death resulted from that act or omission. that the conditions for entitlement stated in this Act have been met.

Explanation: The emphasis should be on the burden of proof. The original version, by identifying some but not all of the conditions to entitlement, seems erroneous and misleading. [Professor Rothstein cited the error, but this explanation is not in his words.]

Pg. 10, Line 264: other laws of this State and of the United States, the financial

resources of the claimant, and the availability of

Explanation: To conform with Sec. 464(a) of the Federal Bill which injects

the element of "undue financial hardship."

Pg. 10, Line 266: Renumber \(\begin{aligned} (2) \end{aligned} \) to (3), and insert a new provision: (2) No order for the payment of compensation shall be made unless the board finds that the applicant will suffer undue financial hardship from pecuniary loss if an order for payment of compensation is not made. In determining undue financial hardship for the purposes of this section, the board shall consider all the financial resources of the applicant. The board shall establish standards by rule for determining such undue financial hardship.

Explanation: Derived essentially from Senate Bill 2994, Sec. 464.

Pg. 13, Lines 332 and 333: judicial review in the same manner and to the same extent as the decision of [a State trial court of general jurisdiction.].

Explanation: Prof. Rothstein points out that due to the differences between the board procedures (and indeed substantive law) and court procedures, the original version could not be implemented.

Section 1. Title.

Section 2. Declaration of policy and legislative intent.
Section 3. Definitions.

Section 4. Crime Victims Compensation Board. Section 5. Powers and duties of the board. Section 6. Eligibility for awards.

Section 7. Procedure for filing.

Section 8. Award and payment of compensation. Section 9. Nature of compensation.

Section 10. Standards for compensation.

Section 11. Attorney's fees. Section 12. Subrogation.

Section 13. Manner of payment.

Section 14. Emergency awards.

Section 15. Review of board decisions.

Section 16. Reports.

Section 17. Severability.

SECTION 1. TITLE

This Act shall be known and may be cited as the Uniform Crime Victims Compensation Act.

SECTION 2. DECLARATION OF POLICY AND LEGISLATIVE INTENT

The legislature recognizes that many innocent persons suffer personal physical injury or death as a result of criminal acts or in their efforts to prevent crime or apprehend persons committing or attempting to commit crimes. Such persons or their dependents may thereby suffer disability, incur financial hardships, or become dependent upon public assistance. The legislature finds and determines that there is a need for government financial assistance for such victims of crime. Accordingly, it is the legislature's intent that aid, care, and support be provided by the State, as a matter of moral responsibility, for such victims of crime.

Reference: MD. Art. 26A-1 (1968). Cf. CAL. GOVT. CODE § 13960 (1967; HAWAII § 351-1 (1967); N.Y. EXEC. LAW § 620 (1966); NEVADA § 217.010 (1969); COUNCIL OF STATE GOVTS, SUGGESTED STATE LEGISLATION,

vol. 26 (1967) (hereinafter CSG) § 1.

Comment. Though a legislative purpose clause is quite optional, it seems important here to explain the purpose of the statute and to indicate the general intent of the legislature. The Uniform Law is predicated on the position that compensation is given as a matter of "moral responsibility. The state is responsible to protect its citizens and should compensate for losses resulting from failure thereof. There are other bases for awards, e.g.: New York awards compensation as a matter of "grace;" Nevada seeks to encourage the "cooperation and assistance of the public in law enforcement;" California immediately limits its purpose to helping "those needy residents of the State."

A central purpose of the statute is to encourage the "good Samaritan" and in-

clude acts of crime prevention in the purpose clause.

SECTION 3. DEFINITIONS

The following words as used in this Act shall have the following meanings, unless the context otherwise requires:

(1) "Board" means the Crime Victims Compensation Board as established in

section 4 of this Act.

(2) "Claimant" means any person or persons claiming compensation under this Act on their own behalf or as a legal representative of the victim or

dependent.

(3) "Crime" means an act committed anywhere which if committed in this state by a criminally responsible adult who had no legal exemption or defense would constitute a crime; provided that such act involves the application of force or violence by the offender upon the victim; and provided further that acts relating to the operation of a motor vehicle, boat or airplane and made criminal solely because of the method or nature of such operation shall not constitute a crime within this Chapter, unless injury was intentionally inflicted through the

use of such motor vehicle, boat or airplane.

Comment: Most states appear to have excluded crimes involving the use of motor vehicles from those for which compensation is paid. The provisions in this section are designed to exclude compensation in cases of negligent homicide or infliction of injuries through careless driving, but to preserve compensation where the vehicle is used intentionally to inflict harm or where the vehicle is being used as a tool in perpetration of a crime other than misuse of the car, as in the case of an injury suffered by collision with a get-away car used in an armed robbery.

(4) "Dependent" means any legal dependent wholly or partially dependent for support upon the victim at the time of his injury or death due to a crime alleged in a claim pursuant to this Act, including a child of such victim born

after his death.

Reference: MASS. Ch. 258A-1 (1967).

Comment: Some acts omit this definition. Most include it in some form similar to this section. The definition leaves to the law of the state the determination of who is a dependent, and then further narrows this class to those receiving essential aid in whole or in part from the victim at the time the injury or death occurred.

(5) "Injured" means sustaining personal injury and, in the case of rape, in-

cludes becoming pregnant; "injury" means personal injury and pregnancy.

(6) "Medical expenses" means charges for hospital and nursing services, physicians' fees, medicines, rehabilitative prescriptions, and other expenditures prescribed by a physician.

Reference: HARV. MODEL ACT § 101(h) (1967).

(7) "Relative" means any person related to the victim within the third degree of conganguinity or affinity.

Reference: MARYLAND ACT § 2(d).

(8) "Victim" means a person domiciled in this state who suffers personal physical injury or death as a direct result of a crime.

Reference: MASS, Ch. 258A-1 (1967), and others.

Comment: Compare Nevada which defines a victim as a "person who is physically injured or killed while attempting to prevent the commission of a crime or to arrest a suspected criminal or while aiding or attempting to aid a police officer to do so." Such a definition would appear to exclude innocent bystanders and victims of violent crimes, and thus the definition seems too narrow.

SECTION 4. CRIME VICTIMS COMPENSATION BOARD

- (1) There is hereby created in the executive department a board, to be known as the crime victims compensation board. Such board shall consist of three members, no more than two of whom shall belong to the same political party, who shall be appointed by the governor solely on the basis of fitness to perform the duties of the office. The members of the board shall have been admitted to practice law in this State for not less than [5] years next preceding their appointment.
- (2) The term of office of each such member shall be **[**seven**]** years, except that the members first appointed shall serve for the term of seven years, five years, and three years, respectively. Any member appointed to fill a vacancy occurring otherwise than by expiration of a term shall be appointed for the remainder of the unexpired term.

(3) The governor shall designate one member of the board as chairman there-

of, to serve as such at the pleasure of the governor.

[4] The members of the board shall devote their whole time and capacity to their duties, and shall not engage in any other occupation, profession, or employment, and shall receive an annual salary to be fixed by the governor within the amount made available therefor by appropriation.

(5) Each member of the board shall be eligible for reappointment.

(6) Any member of the board may be removed by the governor for inefficiency, neglect, or malfeasance in office.

Reference: N.Y. EXEC. LAW § 622 (1966), and 5,2936, § 202 (1969).

Comments (1) The board is intended to perform an apolitical function and as such should have minimum technicalities for its activities. The board is appointed by the governor without the advice of the legislature to expedite procedure. (2) Terms are staggered for purposes of continuity. (3) Appointment of a chairman

is for administrative efficiency, though the three board members are intended

to function as equals.

Subparagraph (4) is bracketed, because in most states it is not likely that a full-time board of three attorneys would be justified by the work load. Perhaps this is a detail which could be omitted entirely, or perhaps a provision included like Hawaii's to the effect that: "Each member of the commission except the chairman shall be compensated at the rate of \$50 per day for each day's actual attendance to his duties, provided such compensation shall not exceed a maximum of \$6,500 per year. The chairman shall be comepnsated at a rate of \$55 per day for each day's actual attendance to his duties, provided such compensation shall not exceed a maximum of \$7,200 per year. The members of the commission shall be paid their necessary travelling and subsistence expenses incurred in the discharge of their duties."

(5) There seems to be no reason why good people should not continue to serve,

but (6) permits removal for cause.

The executive board form of administrative unit was chosen over other possible alternatives, such as the court system in Massachusetts. Efficiency and workload may better be handled by an independent executive entity.

SECTION 5. POWERS AND DUTIES OF THE BOARD

The board shall have the following powers and duties:

(1) To establish and maintain a principal office and such other offices within the state as it may deem necessary, to appoint secretarial and clerk assistants and such other employees and agents as may be necessary, fix their compensation within the limitations provided by law, and prescribe their duties.

(2) To adopt, promulgate, amend, and rescind suitable rules and regulations to carry out the provisions and purposes of this Act, including rules for the

approval of attorneys' fees for representation before the board.

(3) To request from the State's Attorney, State Police, county, or municipal police departments such investigation and data as will enable the board to determine if a crime was committed or attempted, and the extent, if any, to which the victim or claimant was responsible for his own injury.

(4) To hear and determine all claims for awards filed with the board pursuant to this Act, and to reinvestigate or reopen cases as the board deems necessary.

(5) To direct medical examination of victims.

- (6) To hold hearings, administer oaths or affirmations, examine any person under oath or affirmation and to issue summons requiring the attendance and giving of testimony of witnesses, and require the production of any books, papers, documentary, or other evidence. The powers provided in this subsection may be delegated by the board to any member or employee or agent thereof. A summons issued under this subsection shall be regulated by the civil practice law and rules.
- (7) To take or cause to be taken affidavits or depositions within or without the State.

Reference: N.Y. EXEC. LAW § 623 (1966), and MD. art. 26A, § 4 (amended 1970).

Comment: The intent of the subsection is to give the board as much flexibility as possible to act in a quasi-judicial role. Enough power is given the board to secure all the evidence it needs to decide a given case, but there is no requirement that the board exercise any of its powers. It is expected that many of the claims will be routine and capable of determination without a hearing or extensive administrative procedures. There is no requirement that a hearing be held in all cases.

SECTION 6. ELIGIBILITY FOR AWARDS

(1) The following persons shall be eligible for awards pursuant to this Act:

(a) A victim of a crime;

- (b) Any dependent of the victim of a crime who died as a direct result of such crime;
- (c) Any person who is injured or any dependent of a person who dies as a direct result of either (i) attempting to prevent a crime from occurring, (ii) attempting to apprehend a person who has committed a crime, or (iii) acting at the request of a law enforcement officer in attempting to apprehend a suspected criminal whether or not a crime was committed.

(2) No compensation shall be awarded if the victim:

(a) Is a relative of the offender:

(b) Was at the time of the personal injury or death the victim living with the

offender as a member of his family or household, or maintaining a sexual relationship, whether illicit or not, with such person or with any member of the family of such person.

(3) The extent to which the victim contributed to or caused his injuries or death shall be considered by the board in determining the amount or allowance

of an award.

References: MD. art. 26A, § 5 (1968), and CSG § 12 (1967).

Comment: A separate section on eligibility is included for purposes of clarity. "Crime," "dependent," and "relative" are defined in earlier sections. Beginning with subsection (d) eligibility is extended to include those aiding in the prevention of crime, the avowed purpose being to encourage the citizenry in aiding each other and the police in the prevention of crime. Subsection (2) is intended to remove all possibility of collusion in the application for compensation by removing from eligibility any person in the offender's family or sexually involved with the offender or his family. Subsection (3) is a departure from the usual civil rule of contributory conduct being a complete bar to recovery. This subsection does not automatically bar a claim for compensation, and the board after considering all the circumstances may still feel that compensation is warranted.

SECTION 7. PROCEDURE FOR FILING

The board shall determine procedures and develop an application for compensation under this Act. Any person eligible for compensation under this Act may make application himself or have application made on his behalf by parent or guardian if incompetent or a minor. The applicant shall submit reports, if reasonably available, from all physicians or surgeons who, at the time of or subsequent to the victim's injury or death, treated or examined the victim in relation to the injury for which compensation is claimed. The board may call for the previous medical history of the victim or for a report by an impartial medical expert if such is deemed necessary.

Reference: NEV. § 217.100 (1969).

Comment: The application procedure should be kept as simple as possible and left entirely with the board to develop and publish application rules and forms. Health records are clearly necessary and the board should have access to as complete a record as there is available. Details such as deadlines for filing, place of filing, and necessary information to be submitted should be left to the board's determination.

SECTION 8. AWARD AND PAYMENT OF COMPENSATION

(1) In any case in which a person is injured or killed by any act or omission of any other person constituting a crime under this Act, the board may, in its discretion, upon an application, order the payment of compensation in accordance with the provisions of this Act.

(2) For the purposes of this Act, a person shall be deemed to have intended an act or omission notwithstanding that by reason of age, insanity, drunkenness, or

otherwise he was legally incapable of forming a criminal intent.

(3) An order may be made under this section whether or not any person is prosecuted or convicted of any offense arising out of such act. Upon application made by an appropriate prosecuting authority, the board may suspend proceedings under this Act for such period as it deems appropriate on the ground that a prosecution for an offense arising out of such act or omission has commenced or is imminent.

(4) No order shall be made under this section unless the board is satisfied, on a

balance of probabilities.

(a) That there was an act or omission, and

(b) That the injury or death resulted from that act or omission.

References: S. 2936, § 301; NEW ZEALAND, no. 134, § 17 (amended 1966); and

CSG § 9 (1967).

Comment: Subsection (1) is again intended to endow the board with a general power to award compensation. The details are left to the board's determination. Subsection (2) is for the protection of the victim and his dependents. A victim is no less a victim because the perpetrator is not legally blameworthy. Subsection (3) is included so that the board's deliberations will not prejudice the criminal prosecution of the offender. Subsection (4) merely restates the point that the Act is intended to compensate persons only to the extent they sustained injury or death as a result of the commission of a particular crime.

SECTION 9. NATURE OF COMPENSATION

Compensation may be awarded by the board under this Act in respect of any one or more of the following matters:

(a) Expenses actually and reasonably incurred as a result of the victim's

injury or death;

(b) Pecuniary loss to the victim as a result of total or partial incapacity for work;

(c) Pecuniary loss to dependents as a result of the victim's death;

(d) Other pecuniary loss resulting from the victim's injury, and any expenses which, in the opinion of the board, it is reasonable to incur; and

(e) Pain and suffering of the victim.

Reference: NEW ZEALAND, no. 134, § 18 (amended 1966).

Comment: Compensation may be awarded not only for injury-related expenses, but for lost work time and related expenses. Subsection (e) may be controversial and suffering was warranted though admittedly less capable of analysis than actual damages.

SECTION 10. STANDARDS FOR COMPENSATION

(1) For the purpose of determining the amount of any compensation payable under this Act, the board shall, in so far as practicable, formulate standards for uniform application of this Act, and shall take into consideration rates and amounts of compensation payable for injuries and death under other laws of this State and of the United States and the availability of funds appropriated for purposes of this Act.

(2) No award shall be made on a claim unless the claimant has incurred a minimum out-of-pocket loss of fifty dollars or has lost at least three days continuous earnings or support due to the act or omission for which compensation is

claimed under this Act.

(3) No award made under this Act to or on behalf of any victim shall exceed [\$25,000].

References: S. 2936, § 304; CSG § 8.

Comment: The board should not award compensation without developing a schedule of amounts payable in certain instances and circumstness, and that schedule should be in concert, where possible, with, say, the state workmen's compensation schedules. Subsection (2) establishes a minimum "deductible" amount to prevent undue administrative burden and very minor claims. The minimum is a low one, however, because the victim or dependents may be put in severe financial straits because of the crime. Subsection (a) sets an arbitrary maximum award limitation based on economic reality.

SECTION 11. ATTORNEY'S FEES

The board, as part of any order entered under this Act, determine and allow reasonable attorney fees, which shall not exceed [15 per cent] of the amount awarded as compensation under this Act, to be paid in addition to the amount of such compensation, to the attorney representing the applicant. Additional amount not exceeding [15 percent] of the amount awarded as compensation may be awarded by the court in the event of appeals under this Act. It shall be unlawful for any such attorney to ask for, contract for, or receive any larger sum than the amount so allowed.

Reference: CSG, § 6 (1967).

Comment: Attorneys will often be employed to process applications under the Act. This section sets a limit to their remuneration and protects the basic purpose of the Act while compensating the attorney fairly.

SECTION 12. SUBROGATION

Acceptance of an award pursuant to this Act shall abrogate the State, to the extent of such award, to any right or right of action accruing to the claimant or the victim to recover payments on account of losses resulting from the crime with respect to which the award is made.

Reference: N.Y. EXEC. LAW § 634 (1966).

Comment: There should be no double recovery under this Act, and therefore the State should be subrogated to all further rights of the claimant, at least to the amount paid under this Act.

SECTION 13. MANNER OF PAYMENT

The award shall be paid either in a lump sum or in periodic payments depending on the claimant's circumstances. No award shall be subject to execution or attachment other than for expenses resulting from the injury which is the basis for the claim.

Reference: N.Y. EXEC. LAW § 632 (1966).

Comment: Complete flexibility is left to the board to determine the manner of payment to claimants. Where the expenses are on-going ones, as in cases of protracted disability, the board is free to make periodic payments.

SECTION 14. EMERGENCY AWARDS

If in the opinion of the board severe financial hardship will result to the claimant if immediate payment is not made, and it appears that a final determination of the record will be in the claimant's favor, an amount not exceeding [\$500] may be paid to the claimant, such amount to be deducted from any final award, or repaid if no final award is made.

Reference: N.Y. EXEC, LAW § 630 (1966).

Comment: Delays may be inevitable before final awards are made. This section provides flexibility to the board where severe financial straits are encountered.

SECTION 15. REVIEW OF BOARD DECISIONS

(1) The claimant shall notify the board promptly in writing of any change in the victim's circumstances which might alter the amount of compensation to which the claimant is entitled.

(2) The board on its own motion or at the request of the applicant may reconsider a decision denying compensation or the amount of compensation awarded. The board shall reconsider the award at least every two years unless

(3) The right of reconsideration shall not affect the finality of a board decision

for the purpose of judicial review.

(4) The decision of the board after reconsideration shall be subject to judicial review in the same manner and to the same extent as the decision of [a State

trial court of general jurisdiction.]

(5) Appeals must be taken to [the appropriate state court] within thirty days of the final decision of the board. The board when notified of an appeal shall transmit the official record of the proceedings before the board to the reviewing court.

Reference: HARV. MODEL ACT §§ 601, 602 (1967).

Comment: Reconsideration of a board decision can come from the board on its own motion or the claimant. The claimant must obtain review by the board of its decision before appealing to the courts. If he is still dissatisfied with the board's decision after reconsideration, he has thirry days in which to appeal. Reconsideration by the courts is not a new trial on the merits, nor need there be a jury trial. The scope of review is limited to the normal scope of review of trial court decisions, It is hoped that this will avoid de novo review of the applications.

SECTION 16. REPORTS

The board shall prepare and transmit to the Governor and the legislature annually a report of its activities under this Act including the name of each applicant, a brief description of the facts in each case, the amount of any compensation awarded, and a statistical summary of claims and awards made under the Act.

Comment: Yearly reports will enable the legislature to assess the operation and need for the program in the respective states. As such programs become more well known, applications should be expected to increase.

SECTION 17. SEVERABILITY

If any provision of this Act or the application thereof to any person is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Reference: Patterned on the model severability section recommended by the

National Conference of Commissioners on Uniform State Laws.

Senator Hruska. Very well. Your statement will be placed in the record in its entirety.

Mr. ROTHSTEIN. Fine.

Senator Hruska. You may proceed.

Mr. Rothstein. Thank you.

At this point I would like to summarize or supplement very briefly certain points made in that memorandum.

Senator Hruska. Very well.

Mr. Rothstein. I would like to thank the committee, first of all,

for the opportunity to be here today and to speak.

I would also like to commend the committee and its chairman and the other members for their bold leadership in presenting and airing this bill. I think it is a great forward step, and one that we should all

I feel particularly qualified to speak in this fashion, and compliment the committee and the bill because I have been engaged in similar work, myself, as consultant to the Commissioners on Uniform State Law for drafting a model act along similar lines for adoption by

the States.

You may remember the Commissioners on Uniform State Law as the drafters of the Uniform Commercial Code that was widely adopted

in this country by the States.

I also am consultant to the International Conference on the Compensation of Innocent Victims of Violent Crime. This is a conference which is comprised of the administrators of pretty near all of the existing compensation plans in this country and in Canada.

The Crime Victims Compensation Plan, the administrators from all the Provinces of Canada and all of the States of the United States that do have criminal injury victim compensation plans have come together in this conference, and insofar as I know it is the only con-

ference in the world directly concerned with this problem.

And I would like to say just at this point that if the provisions of this present Senate bill are implemented, which provide for the appointment of an advisory committee or commission, it would seem to me that this conference on the compensation of innocent victims of violent crimes, which is a continuing conference in the nature of a committee, that it be appointed as this advisory committee because they have obvious expertise and experience.

The conference is comprised of all of the administrators of existing plans and has an enormous amount of practical experience to impart.

With those preliminary comments, then, let me highlight or supplement to some extent some of my technical observations in the memo

which I have prepared for printing in the record.

First of all, it seems to me that it is unclear under the bill as presently drafted, and let me say I have nothing but the highest respect for the bill, and it has my full endorsement, and I offer these few suggestions as constructive comments, it seems unclear under the bill as presently drafted whether or not persons who are helping policemen and it subsequently turns out that no crime was committed, but from all reasonable appearances it looked as though a crime was being committed, it would seem to me that these people ought to be compensated, and yet under the bill as presently drafted it is unclear. The bill seems to require that there actually has to be a crime. Now, it seems to me there are numerous instances where policemen and citizens aiding the policemen attempt to make an arrest, attempt to prevent crime because from all reasonable appearances it looks as though a crime was being committed and yet no crime was, in fact, being committed.

Senator McClellan. Well, now, an attempt to commit, an attempt to commit a crime, would that be sufficient, or would that still be lack-

ing? Would it be inclusive enough?

Mr. Rothstein. That would still be lacking, to my mind, because policemen and citizens are entitled to arrest and prevent upon probable cause, and suspicion does not necessarily mean that there was a crime or an attempt.

Senator McClellan. If a policeman is attempting to make an

arrest, and he is assassinated, why, that is a crime within itself.

Mr. Rothstein. Well, let us suppose that a situation that happened up in Maryland recently, where police invade a man's apartment, and let us suppose my hypothetical facts. I am not absolutely certain what the facts will prove to be in that case, but let us suppose that the police, on a reasonable tip, and some reasonable grounds, and acting quite reasonably invade man's apartment because they believe that a crime is being committed inside.

This is quite legal conduct for the policemen, and quite reasonable. But, let us suppose that they are mistaken. Let us suppose that a citizen was enlisted to help them. The man inside can also act quite reasonably there to defend his property. Someone might be killed. No crime has been committed. The policeman has acted reasonably, and so has the private citizen who has done the shooting. Someone might

be injured. There would be crime.

Senator McClellan. Well, that would be in the line of duty?

Mr. Rothstein. That is correct.

Senator McClellan. But not a crime.

Mr. Rothstein. Not a crime.

Senator McClellan. In other words, the perpetrator of the violence, acting upon a reasonable assumption as it appeared to him at the time, would not be guilty of making an assault or guilty of homicide or murder, as the case might be, but still there would be no crime, and yet the policeman would be a victim of violence?

Mr. Rothstein. Yes, and I would believe that there should be compensation for the policeman or this citizen helper in that situation. The act as presently drafted seems to require that there be a crime.

Senator McClellan. Would you submit some technical drafting that might aid us in this? I think you have a very strong point.

Mr. Rothstein. Yes, I will undertake to provide that.

Senator McClellan. If you will do that it will be appreciated. We will weigh it, and I am sure the committee will want to consider this question that you raise.

Mr. Rothstein. Thank you very much. Senator McClellan. Senator Hruska.

Senator HRUSKA. I join the chairman in saying it is a point which should receive further consideration and study. Who would determine, after all, if there is no crime? When there is a crime that is easy, it is

not, because there is a determination, a judicial determination that has been made. But who would determine whether or not the acts or the series of acts that occurred had the appearance of a crime but in actuality was not? Would it be the commission or whoever is handling the claim?

Mr. Rothstein. The short answer would be yes. It would be the commission, but let me point this out, that the act as presently drafted does not require when there is a crime that there has been a conviction or a judicial determination of the crime.

Senator Hruska. It does not?

Mr. Rothstein. In other words, the act, as presently drafted, allows the victim to present his claim for compensation even before there has been any determination, or judicial determination of crime and, indeed, even before the offender has been captured.

And, in fact, this very seldom would be the case, where the offender is captured, and very often he would not be captured, and so the commission is also presented with the problem of whether or not there has

been a crime.

Senator McClellan. Do not the States have to certify, or the Governor have to certify, that there has been a crime under the bill—

Mr. ROTHSTEIN. I do not believe so. The law enforcement agencies are required to cooperate with the commission in providing information to determine whether there was a crime.

Senator McClellan (continuing). This applies to title III. I was

just trying to recall.

In title III, we do require certification, I believe, by the Governor of a State where the crime is committed.

Mr. ROTHSTEIN. Under title III. but not so under title I.

Senator McClellan. Well, title I, that is another area in which we need to give this question some attention, and I would appreciate it, if it is convenient for you, if you could make yourself available to the staff and consult with them, and counsel with them in trying to draft appropriate language.

Mr. ROTHSTEIN. I would be pleased and honored to do that, Senator.

Senator McClellan. Thank you.

Mr. Rothstein. Another point that I would like to direct my attention to is the problem of enumerated particular crimes. Now, I know that the enumeration of crimes that exist in the bill is very broad and includes pretty nearly every crime of violence that one could think of.

I do, however, have this problem, that there are crimes that are not considered crimes of violence that would result in injuries. For example, in a situation that comes to my mind based upon a recent California case, we had a crime of criminal fraud, which would not come within the definition of a crime of violence, and yet the criminal fraud resulted in death.

Here is how it came about: A person who was not a medical doctor purported to be such, and purported to have a cure for cancer. A patient, in reliance on this criminal fraud, avoided seeking out competent medical advice, in reliance on this quack's treatment.

Mr. Blakey. Would that not be manslaughter?

Mr. ROTHSTEIN. Pardon me?

Mr. Blakey. Would that not be manslaughter?

Mr. Rothstein. As a consequence the patient died. It would not be manslaugter, not necessarily, under the laws of different States. There would be differences of view on this.

It would seem to me, then, that an act which said that when injury or death comes about from any crime that that is a better way to phrase it, that if an injury or death comes about from any crime or the proximate results of any crime that this should be compensated.

Now, one other problem under the so-called technical considerations portion of my memorandum is this: The problem of proximate cause. It seems to me that many times when a crime is being perpetrated there may be a so-called accidental death. For example, in the course of a bank robbery or other crime, a bystander may be injured by a bullet that goes astray, and it may even be a policeman's bullet, or it may be the robber's bullet, but it could be the policeman's bullet.

Now, law in the various States differs as to whether this death is attributable to the robbery. Under some States, under felony murder or robbery they will be guilty of murder, and in other States they would

not be guilty of murder.

The act, as presently drafted, says the death has to be the proximate result of the crime, as one of the enumerated crimes. It seems to me that while they would argue that this death from this policeman's bullet going astray is the proximate result of the death, probably it is not altogether clear that an agency would hold it to be the proximate result. They may hold it to be an accidental byproduct, or something of that sort, and it would seem to me that this ought to be clearly regarded as the proximate result of the crime.

If you see what I mean, it is a relatively accidental element, and I would say that it was a proximate result of the bank robbery, but it seems to me there is a possibility that a commission might take a

restrictive view and hold that it is not.

Now, Congressman Mikva was asked by Senator Hruska about the problem presented by the offender who is made to pay either to the State or to the victim in order to make the victim whole. I believe the Senator was suggesting that oftentimes this could create a greater

social problem than we are trying to prevent with the bill.

I believe what you were suggesting is that the offender, himself, may have a family that he is supposed to support, and no job, and that if he has to make payments to the victim that this may either drive him into further crime, or his family into further crime, and that it may leave his family unsupported. Was that what the Senator was suggesting?

Senator Hruska. Surely, that is part of it, and the other was the motivation for the doing away with the children who in this particular case are the beneficiaries of that order to pay 40 percent of the

man's earnings.

Mr. Rothstein. Yes. My suggestions in the memorandum that I prepared would be that the attorney general or the court have discretion to decide when recovery from the offender ought to be sought, and that if there are special circumstances which would dictate that it is not wise policy in a particular case, to seek money from the offender, that this judgment be made, and that the money not be sought, and that the criteria that I suggest just along the lines that you have been talking about, and that a judgment be made.

In other words, that recovery not be sought from the offender in

every single case.

Now, under the section of my memorandum labeled "Procedural," the main points are these: I felt that the entitlement to a hearing ought to be clarified to make it clear that the victim or the claimant have the right to a hearing in all cases. I think that this is necessary to comport with and to avoid criticisms that might be levied from quarters that are very, very concerned with the due process guarantees.

It seems to me the Government is giving out a benefit here, and that it must be very careful to avoid criticism that if the benefit is not being given out in full for adequate hearings—toward this I would have the act clarified that the claimant is entitled to hear all of the evidence against him and have a chance to rebut it and, as presently drafted, the act merely states that if there is going to be witnesses against him that he has the right to confront them.

But, it seems to me there might be documentary evidence, other arguments and other considerations that may go on among board members, and that he is not privy to, and may never get a chance

to argue against.

And, indeed, his award may be denied on the basis of these things. So, I would suggest that the act be clarified so that all of the arguments made against him that are going to be made against him and his claim, that all of these be presented to him and that he have an opportunity to answer them, and examine them and talk about them.

I think the act should be clarified to provide that all of those who qualify under the act to get their compensation get it. As presently worded, the act says that everybody who meets these enumerated qualifications may be compensated. The suggestion is that there may be discretion to compensate some, and not to compensate others. It would seem to me if all of the claimants equally meet all of the criteria of the act, that all such claimants who equally meet the criteria of the act should be.

Senator McClellan. How about where they do not cooperate with law enforcement officials, and they would be eligible in every way, but they refuse to cooperate? Would you have it mandatory that

they be compensated?

Mr. Rothstein. No; that is one of the criteria of the act, and that would have to be met. But, the act as presently worded says that if there has been a crime, if the victim has been injured, if he has cooperated with law enforcement agencies, if he has done this, if he has done that, if he meets all of these requirements that I agree he should have to meet, then the board may compensate him.

Senator McClellan. You think that word "may" should be changed

to "shall"?

Mr. Rothstein. Yes; if he meets all of these requirements.

Senator McClellan. Leaving no discretion whatsoever?

Mr. Rothstein. No discretion except within the confines of the specific criteria.

Senator McClellan. If the board finds he has met all of them, then the board "shall"?

Mr. ROTHSTEIN. That is right. Senator McClellan. Mandatory? Mr. Rothstein. If he meets the financial need criteria, and he has cooperated with the law enforcement agencies, and he is not a member of the offender's family, and he has been injured, and he meets all of the criteria, it seems to me that it leads up to a case of "shall," he

shall be compensated.

Senator HRUSKA. Professor, how should the situation be dealt with where there is not cooperation, and for good cause? Because many crimes are not reported because they often happen in the neighborhood and any reporting or any cooperation with the law enforcement officers would bring upon the victims an increased measure of violence and retribution. Now, how is that dealt with?

Should a victim be called upon to do something that will invite, and very likely result in greater harm to him if he cooperates with the authorities before he can get any benefits from this humanitarian

statute?

Mr. ROTHSTEIN. I think that is a very good point. I think the act, the criteria in the act, relating to this matter ought to be that he must cooperate unless there is reasonable excuse.

Senator Hruska. Well, in those circumstances there will be no

cooperation.

Mr. ROTHSTEIN. Yes; and I think that would be reasonable excuse. Senator McClellan. Would the Senator yield at that point?

I realize that is a very critical issue or problem in connection with this, but if we say to everybody that, if you feel that you should not cooperate, that there might be some reprisal or something done, you know, we could never have law enforcement in this country. We could not make a witness testify in any case if he felt like there would be any reprisal, and we all take some risk.

Mr. Rothstein. I would think that the board would administer that provision very skeptically and would not excuse a failure to cooperate

except in very aggravated circumstances.

Senator McClellan. I am not altogether unsympathetic to the idea, but it also strikes me that if a witness can determine whether he wants to cooperate or not cooperate, and a victim is expected to be compensated, and we say, "Well, if you do not feel like you ought to cooperate," and he says, "Well, I do not think I should, or something else may happen to me if I do," that would apply to witnesses in nearly all criminal cases. They would be reluctant to testify, and they would say, well, and I do not know how you could enforce the law unless we required this.

Mr. Rothstein. Perhaps the regulations that the board would promulgate should say that before there will be an excuse for non-cooperation that there would have to be some actual threat against

the victim by the offender.

Senator McClellan. Would you then just have a provision to let the board promulgate rules that would cover the situation?

Mr. Rothstein. Yes.

Senator McClellan. I do not think you can just write it inflexibly

in the law. It is a real problem.

Mr. Rothstein. I do see it as a problem, and I do see that there would be exaggerated cases where a family would be scared to death to cooperate because threats have been made.

Senator McClellan. Well, maybe; maybe there is a valid fear, and there may well be that there are dangers. I say it may well be a valid fear.

Mr. Rothstein. But they should be called upon in your view, nevertheless, to cooperate? I must say that I have some sympathy with that, too, and I am not absolutely certain where I would come out on that. I do feel that there must be some exaggerated case where actual threats have been made, say threats have been made on the life of say the children in the family and where the injured victim should not be disentitled to compensation just because they were not as forthcoming as they might have been in helping the police.

Senator Hruska. Mr. Chairman, I should like to say that I have formed no conclusion on it, either. I do not know what can be worked out, but it is fortunate for the subcommittee and the sponsors of this legislation that we have people like the professor who are here and who

are going to try to help us out.

Mr. Rothstein. Thank you, and I would like to stand ready, and I

am ready, to be called upon at any time.

Senator McClellan. Thank you very much. I was just emphasizing here the real problems of trying to draft legislation to get the language arrangement that will do what you want it to do, and not open the gates to many things, many interpretations that would not be satisfactory at all. It is a real problem.

Well, we appreciate your help very much.

Mr. Rothstein. Thank you.

Now, with respect to the section of my memorandum entitled "Mode of Trial," the thoughts expressed there are that I very strongly feel that a separate board should be entrusted with administering this act and administering compensation plans in the States, and that this ought not to be given to the Workmen's Compensation tribunal or the courts, and I believe that is the overwhelming conclusion of most of those jurisdictions in the common law that have adopted plans, and I just wish to underscore that point.

With respect to the State plans, it would seem to me that the Federal provisions ought not to foreclose the States from adopting plans that vary somewhat from the Federal plans. And my original impression was that the Federal bill, as drafted, did foreclose too much freedom on the part of the States to experiment, and to change, and to do some-

thing a little different from the Federal bill.

Since then I have been told that the way it would work out in practice is that if a State, for example, adopted a different plan, or a broader plan than the Federal bill, that they would share, the Federal funds would be given to them pro rata. In other words, insofar as their operations conformed to the Federal plan there would be Federal funds forthcoming, and insofar as they can—insofar as their operations are in excess of the Federal plan, they would fund that on their own. And while I think that the Federal fund should be available for any criminal injury compensation plan that comes forth, with due process, and has certain safeguards against fraud and fault on the part of the victim, that any such State plan ought to qualify for Federal aid.

And nevertheless I do see that there is a problem here and would not be too unhappy if the matter stood this way; that is, that the State plans can receive, even State plans that are different from the Federal plan, that they can still receive Federal funds insofar as their accounting shows that part of their operations do resemble the Federal bill. And I think that this more clearly emerges from my views, and that concludes my comments today.

Senator McClellan. Thank you very much.

Mr. Rothstein. Thank you very much.

Senator McClellan. And we will appreciate your working with us, our staff, in some of these areas, and possibly we can get a bill that will meet most of the objectives.

Thank you, sir.

Mr. ROTHSTEIN. Fine. Thank you.

Senator McClellan. Call the next witness. Mr. Blakey. Mr. Richard Minck, please.

STATEMENT OF RICHARD MINCK, ACTUARY, LIFE INSURANCE ASSOCIATION OF AMERICA, NEW YORK, N.Y.

Senator McClellan. Mr. Minck, will you identify yourself for the record, please?

Mr. Minck. Thank you, Mr. Chairman. I have submitted a statement. Senator McClellan. You have a prepared statement? Do you wish read it?

Mr. Minck. No, I would prefer, if I may, to simply briefly summarize it and try to answer any questions.

Senator McClellan. We will let it be inserted in the record in full. (The statement follows:)

STATEMENT BEFORE SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURES OF SEN-ATE COMMITTEE ON THE JUDICIARY ON THE VICTIMS OF CRIME ACT OF 1972 (TITLE II)

My name is Richard Minck, Actuary of the Life Insurance Association of America, a trade association whose member companies write about 88% of the group life insurance written by U.S. companies. I am appearing to offer some comments on the basic insurance features of the bills before the Subcommittee and to respond in a general way to some questions which have been raised by the staff of the Subcommittee. My statement will be primarily concerned with current practices in the field of group life insurance.

I. GROUP LIFE INSURANCE PREMIUM RATES

A. Computations

The basis for computing group life insurance premium rates applicable for the first year that a case is in existence is set forth in regulations promulgated by

the insurance commissioners of Maine, New York and Ohio.

In order to calculate the initial premium rates for a new case, companies obtain a census showing how much insurance will be issued at each age. The amounts of insurance at each age are multiplied by the tabular gross premium rate (see attached Table A) for such age and the resulting gross premiums are added together. Any additional premiums required because of hazardous occupations are added to produce a basic premium. This basic premium is then reduced by an "advance expense and contingency adjustment" factor as specified in the regulations which depends on the size of the case and which ranges from zero for very small cases to 35% for cases producing premiums of \$1,000,000 per year or more.

The advance adjustment recognizes the incidence of expenses and the margins needed for contingencies. Some expenses—such as state premium taxes—vary by the amount of premiums a case produces. Other expenses vary by number of lives insured or numbers of claims experienced. Still other expenses—such as the costs of establishing records for a case and issuing a contract—are relatively constant regardless of the size of the case. The net result of this rather complicated pattern of expense variation is that expenses as a per cent of premium tend to decrease as premiums increase but not beyond a certain point. The same is true for margins needed for mortality fluctuations and for contingencies.

B. Separate rates for separate employers

The calculations outlined above set the initial premium rates. In group insurance cases involving a single employer, it is customary to express the premium rate to be charged in terms of so many cents per month per \$1,000 of insurance—based upon the preceding calculations. If several separate employers are involved, separate premium rates are developed for each employer reflecting the distribution of insurance on his employees. Otherwise, an employer for whom most of the insurance would cover rather young employees would find that he could do better purchasing such insurance outside the proposed case. This is particularly significant for the case to be established by the Victims of Crime Act since many state and municipal governments have existing group life insurance coverage for public safety officers and would naturally compare the costs of the two alternatives.

C. Providing for special hazards

The premium rates set forth in the attached Table A are applicable to a wide range of industries, but in some cases additional premiums may be required to cover special hazards. In general, insurance companies have not had to charge extra premiums for group life insurance on groups including public safety officers. However, extra premiums have been required for group accidential death and dismenberment coverage. The reason for this difference is that much of the extra hazard represented by these groups is the additional risk of accidental death. If a group were to have an expected 200 deaths per year and an expected two accidental deaths, the costs of one additional accidental death would be nominal as far as life insurance claims were concerned. However, the accidental death and dimemberment claims costs would be 50% greater than normal.

D. Experience rating

The procedures outlined above establish the premium rates charged for the first year. In subsequent years, the premium rates charged will reflect the experience that actually develops under a case. The experience rating process also provides for retrospective rate credits or dividends to be determined at the end of each year to the extent that the premium charged is determined to be more than required. Employers use such rate credits or dividends to pay future premiums or may have such amounts held by the insurance company in a contingency reserve to help stabilize future experience. This latter approach is currently used in both the Federal Employers Group Life Insurance case and the Servicemen's Group Life Insurance case.

II. PROVISIONS CUSTOMARY TO GROUP LIFE INSURANCE PLANS

A. Conversion privilege

Virtually all group life insurance contracts in the United States provide that in the event of termination of employment, coverage under the group insurance contract continues for 31 days and that any time within that period an employee may apply for an individual policy providing the same amount of life insurance. The individual policy must be issued at standard rates regardless of the health of the employee (although an appropriate extra premium may be charged if the employee enters a hazardous occupation). The value of this privilege to the employee is shown by the fact that mortality under such converted policies has been many times higher than mortality under corresponding policies issued to individuals who have been found to be standard risks. The costs of such extra mortality are borne by the group cases under which the conversions are made.

It is important that the period for extending coverage and the period for applying for a converted policy be the same to avoid any interruption in coverage, and a one-month period is virtually universal. The conversion privilege applies to life insurance; accidental death benefits or disability benefits are not normally

included in the converted policy.

B. Disability provisions

Most group life insurance policies provide disability benefits. The benefit most commonly included in modern contracts provides that in the event an employee becomes disabled, life insurance coverage will be continued and premiums for such coverage will be waived until the employee recovers from his disability. The cost of such a benefit is included in the premiums shown in attached Table A.

C. Employee contributions

Most group life insurance plans provide for the same rate of employee contribution per \$1,000 of insurance regardless of the age of the employee. This

approach is much simpler to administer than the alternative of varying employee contributions by age. Younger employees find such an approach acceptable since the employer usually pays much of the costs and the remaining contribution is low compared with the cost of individual insurance even for very young employees. In addition, young employees will one day become older and enjoy the advantage of the fact that contributions remain level. There are a few exceptions—some group life insurance policies cover professional associations and each member pays for the cost of his own coverage. In such cases where there is no substantial employer contribution, employee contributions must vary by the age of the employee.

D. Accidental death and dismemberment benefits

It is quite common for a group life insurance plan to provide additional insurance against accidental death or dismemberment. Such benefits have a relatively low cost, although an additional premium would usually be charged for public safety officers. Occasionally the benefit is written on request for some groups as an accidental death benefit without provisions covering dismemberment. There is very little difference in the costs of these two forms of coverage.

E. Beneficiary provisions

Normal practice in group life insurance is to make the benefit payable to the person named by the employee when he applies for coverage—subject to subsequent change by the employee. The listing of preferential classes of beneficiaries—as was done in the Servicemen's Group Life Insurance plan—is unusual and presumably meets speical needs of the particular group.

F. Changes in amounts of insurance

Most group life insurance plans under which the amount of insurance an individual has is a function of his salary, provide that the amount may be increased at the next premium due date following the increase in salary. Most plans do not provide for reductions in amounts of insurance, in part, at least, because reductions in salary tend to be relatively rare. If employees are paid purely by commissions or have wages that fluctuate widely for some reason, a group life insurance plan may provide an individual with an amount of insurance based on average income over a period of years to avoid frequent changes in amounts of insurance (either up or down).

G. Participation requirements

State laws generally require that where an employer pays the full cost, 100% of his eligible employees be covered for group life insurance. If employees contribute to the cost, state laws generally require that at least 75% of the eligible employees agree to be covered before the insurance can be issued. In a case involving more than one employer, such participation rules normally apply to each employing unit. In some types of cases, state laws set somewhat less stringent participation requirements than these. The purpose for such requirements is to ensure that a case covers a reasonable cross section of the risk in the absence of individual underwriting. Otherwise, the standard premium rates will prove inadequate; as the premium rates subsequently increase, continued participation will become unattractive except to those employees in poor health, and the case may eventually collapse.

H. Statute of limitations

Normally group insurance contracts are silent about the statute of limitations, and rely on the laws of the applicable jurisdiction. A different approach was taken for the Servicemen's Group Life Insurance plan. A four-year provision was included, presumably because of the uncertainties of battlefields. The more customary approach was taken for the Federal Employees Group Life Insurance plan.

III. OTHER MATTERS

A. Reinsurance

It is not uncommon for large group insurance cases to be reinsured. From the viewpoint of the primary insurer, the risk may be so large that the possibility of adverse claim experience is too great a risk to be acceptable. From the viewpoint of the employer, there may be various business reasons for wanting the case to be shared by several insurance companies. The customary approach under such circumstances is for the primary insurer to administer the case completely and for the other insurance companies involved to participate in the financial experience of the case. Reinsurance arrangements have been made for both the

Federal Employees Group Life Insurance case and the Servicemen's Group Life Insurance case—but on slightly different terms.

B. Existing group life insurance

The current situation of public safety officers differs from that of servicemen and federal employees before those plans were established in that many public safety officers are already covered by group life insurance under existing plans. Unless the Federal subsidy is established such that the cost of continuing existing plans in substantially the same as the cost of participating in the new plan, there will be pressure to drop existing plans and enroll public safety officers under the new Federal plan. Where existing plans cover other state or municipal employes, this would create particularly difficult problems. This is another reason for charging separate rates for each separate employer participating in the Federal program.

C. Application of title III

If it is intended that the Federal minimum death and dismemberment benefit to public safety officers be offset against any benefit payable under Title II, there are two alternative approaches. The full Title III benefit could be paid in any event and the benefit otherwise payable under Title II could be reduced by the Title III benefit. This approach is not feasible where coverage under Title II is through existing group life insurance plans rather than through the new Federal plan. A better approach would be to pay the full benefit under Title II and provide any needed supplement under Title III to bring the total benefit up to the schedule shown in Title III. The approach would treat all public safety officers equally, whether their basic group insurance coverage was under existing plans or under the new Federal Plan.

TABLE A—MINIMUM GROUP LIFE RENEWABLE TERM GROSS PREMIUMS
(According to the Commissioners' 1960 Standard Group Mortality Table at 3 percent interest)

ge nearest birthday	Annual	Semiannual	Quarterly	Monthly	Age neares birthday
5	\$2.26	\$1.14	\$0.57	\$0, 19	1
6	2.38	1. 20	. 60	. 20	10
7	2.50	1. 26	.63	. 21	1
8	2.61	1. 31	. 66	. 22	1
9	2, 67	1. 35	. 67	. 23	19
0	2. 75	1.39	.63	. 23	2
1	2, 81	1. 42	. /1	. 24	2
2	2, 86	1.44	.72	. 24	2
3	2, 90	1.46	. 73	. 25	2
4	2. 94	1. 48	. 74	. 25	2
)	2, 97	1, 50	. 75	. 25	2
	3.00	1, 51	. 76	. 25	2
7	3. 02	1, 52	. 76	. 26	2
	3, 06	1, 54	.77	. 26	2
	3, 10	1, 56	. 78	. 26	2
)	3. 15	1, 59	. 80	. 27	3
	3, 22	1.62	. 81	. 27	3
	3.30	1, 66	. 83	. 28	
	3. 42	1, 72	. 86	. 29	
	3, 56	1.79	. 90	. 30	
	3.74	1.88	. 94	. 32	3
	3, 97	2.00	1.00	. 34	
	4, 22	2. 13	1. 07	. 36	
***************************************	4, 53	2. 28	1.14	. 38	3
	4, 89	2, 46	1, 23	. 41	3
	5, 28	2, 66	1. 33	. 45	
	5, 74	2, 89	1.45	. 49	1
)	6, 24	3. 14	1, 58	. 53	4
	6. 81	3, 43	1.72	. 58	4
	7. 41	3, 73	1. 87	. 63	
	8.08	4. 07	2.04	. 68	
	8, 80	4, 43	2, 22	. 74	
	9, 60	4, 84	2, 42	. 81	4
	10.48	5, 28	2, 65	. 89	4
	11.46	5. 77	2, 89	.97	4
	12.51	6, 30	3, 16	1.06	
	13.66	6, 88	3. 45	1.16	
	14.94	7, 53	3, 77	1.26	
3	16, 34	8, 23	4. 13	1.38	
	17, 88	9. 01	4, 51	1.51	
	19, 55	9, 85	4, 94	1.65	
	21, 34	10.75	5, 39	1.80	
7	23, 25	11.71	5, 87	1.97	5
3	25, 28	12, 73	6 38	2.14	5
)	27.42	13, 81	6, 92	2, 32	

TABLE A-MINIMUM GROUP LIFE RENEWABLE TERM GROSS PREMIUMS

(According to the Commissioners' 1960 Standard Group Mortality Table at 3 percent interest)

Age nearest birthday	Annual	Semiannual	Quarterly	Monthly	Age nearest birthday
60	29.72	14.97	7, 50	2. 51	60
61	32, 20	16, 22	8. 13	2.72	61
62	34, 95	17. 61	8, 82	2, 96	62
63	37. 92	19.10	9, 57	3, 21	63
64	41, 13	20, 72	10.39	3, 48	64
65	44.67	22, 50	11. 28	3, 78	65
66	48, 61	24, 49	12, 27	4, 11	66
67	52, 97	26, 68	13, 37	4, 48	67
68	57, 82	29, 13	14, 60	4. 89	68
69	63.10	31.79	15.93	5.34	69
70	68.75	34, 63	17, 36	5. 81	70
71	74.70	37, 63	18, 86	6. 32	71
72	80.90	40.75	20.43	6. 84	72
73	87.26	43.96	22.03	7.38	73
74	93.97	47.34	23.73	7. 95	74
75	101.21	50.98	25. 56	8. 56	75
76	109. 23	55, 02	27, 58	9. 24	76
77 _	118, 21	59, 55	29.85	10.00	77
78	128. 37	64. 67	32, 41	10.86	78
79	139. 59	70.32	35. 25	11. 81	79
BO	151, 71	76. 42	38. 31	12. 83	80
81	164.64	82.94	41.57	13. 93	81
32	178, 19	89, 76	44, 99	15, 07	82
33	192, 27	96. 86	48. 55	16, 26	83
B4	206, 93	104. 24	52, 25	17.50	84
85	222, 29	111.98	56, 13	18.80	85
86	238, 40	120.09	60, 20	20. 16	86
87 	255. 38	128.65	64. 48	21.60	87
88	273, 47	137, 76	69.05	23. 13	, 88
89	293.08	147.64	74. OC	24. 79	89
90	314.71	158. 54	79.46	26.62	90
91	339.03	170.79	85.61	28.68	91
92	366, 84	184.80	92.63	31. 03	92
93	399.07	201.03	100.77	33, 75	93
94	436.82	220.05	110.30	36.95	94
95	484, 52	244. 08	122, 34	40.98	95

Note: To the foregoing rates a constant should be added on the first \$40,000 of insurance equal to \$2.40 per \$1,000 annually; \$1.20 per \$1,000 semiannually; \$.60 per \$1,000 quarterly and \$.20 per \$1,000 monthly. The foregoing rates are exclusive of any reduction on account of premium size.

Mr. Minck. Thank you. My name is Richard Minck, and I am the Actuary of the Life Insurance Association of America, which is the trade association whose member companies have about 88 percent of the group life business in the United States.

And I am appearing to offer some comments on the basic insurance features of the bill before the subcommittee and to respond in a general way to some questions that have been raised by the staff of the

subcommittee.

I would like to clarify at this point that I am appearing as an individual rather than on behalf of my employer.

Senator McClellan. You are appearing as an individual?

Mr. Minck. Yes, sir.

Senator McClellan. Very well.

Mr. Minck. The statement is primarily concerned with current practices in the field of group life insurance, and the first part of the statement deals with the question of rates, premium rates. They depend upon the distribution of insurance in a particular case by sex, by age, and by the size of the case.

I go through some detail about how the rates are actually computed, and I would like to point out that the case being considered differs from the two existing Federal cases, the one covering the Federal employees and the one covering servicemen in that rather than having a single employer, as you do, the Federal Government in the other two

cases, you would now have a number of employers in the States and various localities involved, and that makes some differences in the way

the case would have to be administered.

For example, you have different employers involved, different sources of funds. Many of them who have current plans already would have the option of keeping their own plans in existence if that were to be accomplished ably and more cheaply for him than coming in the new plan, so that in drafting the legislation you would try to make the positions neutral so that they either keep their own case or come into the new one, but are not forced one way or the other by the finances.

The second thing is for the administrative savings to be realized in a case of this size you need some central administration. If the insurance company carrying it were forced to get in touch with every single authority or every State to collect premiums, and take care of the rest of the problems, why you would not realize the same savings as if the Federal Government were to perform some of these functions.

And the rest of the testimony deals with some features that are customary to current group plans generally, and which should be con-

sidered as important privileges.

One is the right for an employee, when he leaves the employment to convert to an equal amount of insurance without having to provide evidence of good health, at standard rates.

Another is the disability provision that provides if an individual is disabled that premiums would be waived on his coverage, and the

coverage will continue as long as he is disabled.

I think that the rest of the statement is primarily in response to specific questions raised by members of the staff, so I would like to leave the summary at that, if I may, and try to respond to any questions that you may have.

Senator McClellan. Well, thank you very much.

Any questions, Mr. Counsel?

Mr. Blakey. Well, the time is late, but I did want to ask you one or two questions, and I wonder if you would respond to them by letter?

Mr. Minck. I would be very happy to.

Mr. Blakely. Thank you.

Senator McClellan. Very well. Thank you very kindly, sir.

This concludes the hearings this morning, and the record will be kept to receive such statements as may be submitted, and which meet with the approval and the rules and regulations of the committee. And I think it will not be necessary to hold another day of public hearings. If it should, we will do so, but in the meantime we hope to move the bill on an early date, however, in Executive session, and possibly get the bill reported to the Senate.

(The following responses were subsequently received:)

U.S. SENATE,

COMMITTEE ON THE JUDICIARY,
SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURES,

Washington, D.C., March 28, 1972.

Mr. Richard Minck, Actuary, Life Insurance Association of America, 277 Park Avenue, New York, N.Y.

DEAR MR. MINCK: In accordance with Senator McClellan's request for your comments on additional questions raised by Title II of S. 2994, the "Victims of Crime Act of 1972," kindly consider the following:

(1) The draft bills on group life insurance are, as you know, very much patterned on the existing FEGLI and SGLI statutes. Are any provisions of these two statutes generally thought to require something regarded as unsound or unusual insurance practice?

(2) Does the setting of basic group life insurance premium rates by state insurance commissioners mean that there is no place for any form of competitive bidding in choosing among several insurers interested in writing life

insurance for a given group?

If bidding is used or usable in any way, might the awarding of a contract to the low bidder make it hard to interest other insurers in participating in reinsurance during the first year of the program because of the low revenue?

(3) In your statement, you mentioned that most group plans including public safety officers do not initially charge extra premiums. But you also indicated that sometimes the basic premium for group life insurance may be higher because of the hazardous occupation of those insured. Can you estimate how often there is an extra initial premium for public safety officers in group life cases (not referring here to the accidental death and disability feature), and how great any such extra charge usually is?

Also, do you know if premiums for groups composed mainly or entirely of public safety officers tend to have to be higher than readjusted rates for other

groups after the first year, and if so by about how much?

- (4) In considering possible revisions in the bill, one idea raised has been to provide a higher percentage of federal subsidy for existing state or local programs with over 1,000, 5,000 or 10,000 insureds than for such plans with fewer members. The idea of such a distinction would be to encourage formation of larger groups to take advantage of the rate reductions for larger groups mentioned in your statement. The subsidy for large state and local programs, for example, might be at a one-third level; the subsidy for smaller state and local programs might be one-fourth.
- a. Are you aware of any comparable practice existing anywhere in the insurance industry?
- b. Do you know of any obstacles arising from general insurance practice or experience to the workability of such a two-tier system?
- c. Can you form an opinion as to what amount of percentage differentiation between subsidies to large and small groups might be necessary to have the desired incentive effect work appreciably?

(5) Generally, what percentage of the total premium for a group life, accidental death, and dismemberment policy is attributable to the AD&D feature?

In plans including mainly or exclusively public safety officers, how much higher than usual do AD&D premium run?

(6) Could you elaborate on the "particularly difficult problems" which would ensue from employees' withdrawal from existing group life plans covering other

employees as well?

(7) Under the assumption that there will eventually be two types of insurance programs created by this legislation—a federal plan and state plans—would customary insurance practice dictate that Federal government contributions be made to state cases which already provide premiums below the premium authorized under the Federal plan?

Can the elimination of this possible feature obviate problems of disruption and still operate in an equitable fashion?

Your cooperation is appreciated.

Sincerely.

G. ROBERT BLAKEY. Chief Counsel.

SUPPLEMENT TO STATEMENT BY RICHARD V. MINCK BEFORE THE SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURES

This supplement has been prepared in accordance with Senator McClellan's request for comments on additional questions raised by Title II of S. 2994, the "Victims of Crime Act of 1972".

A. RELATIONSHIP OF TITLE II TO EXISTING FEGLI AND SGLI STATUTES

The language of Title II is patterned on the existing FEGLI and SGLI statutes. These two statutes in their current form are completely satisfactory as the basis for group insurance coverage. The group insurance case that would be established under Title II differs from the FEGLI and SGLI cases in two important respects. First, the mortality of public safety officers will be higher than that experienced at the same age by government workers generally or by servicemen (if the extra hazards of war are taken care of separately, as they are under SGLI). Second, the case covering public safety officers would involve many different governments all across the United States—rather than simply the Federal Government. This can mean that the costs of administering the case can be relatively higher than the costs of administering FEGLI and SGLI. Thus, the language in Sec. 509. (a) which provides for "... a schedule of basic premium rates by age ... determined on a basis consistent with the lowest schedule of basic premium rates generally charged for new group life insurance policies issued to large employers ..." and corresponding language in the other portions of Sec. 509 should be reviewed.

This language is probably broad enough to permit the setting of premium rates appropriate to the group of public safety officers, but perhaps some consideration should be given to inserting a phrase in the bill or report that makes it clear that in establishing such premium rates, expense and risk charges and other rates, the special characteristics of the group shall be taken into account.

B. COMPETITIVE BIDDING FOR GROUP LIFE INSURANCE

Although the minimum first year premium rates are fixed by regulation for insurance companies admitted to Maine, New York and Ohio, there is still, of course, competition in the field. Such competition is based on service and upon premiums charged in subsequent years and dividends or retrospective premium

rates adjustments in both the first and subsequent years.

Some groups obtain estimates from several insurance companies of anticipated financial experience for a case covering a future period of 10 years or so. Other group do not obtain such estimates. Either basis seems to work reasonably well because of the intense competition among group insurance carriers. FEGLI and SGLI were established without competitive bidding. The carriers were chosen, presumably, on the basis of their ability to administer the cases. If the proposed case covering public safety officers were awarded to an insurer undertaking to charge premium rates that appear to be inadequate, there could be some difficulty in interesting other insurers in participating in reinsurance.

C. PROVISION IN GROUP LIFE INSURANCE PREMIUM RATES FOR HAZARDOUS OCCUPATIONS

The extra mortality experience by groups of public safety officers varies considerably from group to group. For example, highway patrolmen in some states experience considerably higher mortality rates than do policemen in most cities. The situation is further confused by the fact that many public safety officers are covered under group life insurance policies which also cover all other state or municipal employees. In these cases extra mortality experienced by the public safety officers is submerged in the total experience of the case. Moreover, the minimum initial premium rates promulgated by Maine, New York and Ohio were substantially reduced in August of 1971. Before that reduction, extra premiums were quite rare for groups other than in a few industries, and fairly substantial first year dividends or retrospective premium rate adjustments were quite common. In the seven months since that revision, insurance companies have had to charge extra premiums somewhat more frequently than had been the case before the rate reduction. I believe the extra premiums charged for cases involving public service officers have been quite low. Premium rates charged for cases subsequent to the first year will reflect the actual experience of the group, as will dividends and retrospective premium rate adjustments. Therefore, group cases involving public service officers probably pay somewhat higher than average renewal premium rates, but I know of no statistics that would demonstrate the extent of such extra premiums.

D. POSSIBLE VARIATIONS IN FEDERAL SUBSIDY BY SIZE OF GROUP

The possibility has been expressed of having a different level of subsidy for large state and local programs than for small ones in order to encourage the formation of larger groups. If such a practice were to encourage states and municipalities to band together and form larger groups, the administrative costs of collecting premiums and of the insurance carrier would be reduced and the cost of the insurance program would be correspondingly reduced. There is no comparable practice currently in private industry that I am aware of. Third

party subsidies are virtually unknown. Such a system might have drawbacks as well as advantages. A group involving a few people less than needed to qualify for the higher rate of subsidy might feel they were being discriminated against. Groups might fluctuate from one side of the dividing line to the other. If a number of municipalities were to agree to band together, someone would have to be responsible for sending in premiums to the insurer for collecting premiums from the other participating municipalities, for processing claims and for accurately reporting changes in amounts of insurance and in employees covered. Moreover, a single composite premium rate would be charged for the group of municipalities banding together and some municipalities might think they were subsidizing others. Some one of the municipalities would have to incur the expenses of performing the needed administration. To persuade many municipalities to take such a course of action, the additional subsidy might have to be as large as 10% of the premiums. This might involve the Federal Government in costs greater than resulting administrative savings.

E. PREMIUMS FOR ACCIDENTAL DEATH AND DISMEMBERMENT INSURANCE

Standards premium rates for group accidental death and dismemberment insurance are about \$.75 per year per \$1,000 of insurance. The annual premiums for group life insurance for an average group are about \$8 or \$9 per year per \$1,000 insurance. Thus, the premium for A D & D coverage usually amounts to about 8% of the total package. The extra premium charged for A D & D coverage on public safety officers might bring the cost of such coverage up to \$1.25 or \$1.50 per year per \$1,000.

F. POSSIBLE ADVERSE EFFECTS ON EXISTING GROUP LIFE PLANS

If the Federal plan is established with appreciably higher Federal subsidies than those given to existing plans covering public safety officers, states and municipalities may decide to move their public safety officers over to the Federal plan. This will require the amendment of existing contracts and the cancellation of existing insurance with potential gaps in coverage. If the Federal plan is either better or worse than the existing plan, some personnel problems will result. The premium rates for the existing case may have to be increased after the public safety officers are terminated for two reasons. First, the case may be much smaller. Second, the age distribution (which profoundly affects mortality) of the public safety officers may be lower than that of the other employees. If so, the contributions from the other employees may have to be increased with resulting dissatisfaction. Dividends or retrospective premium rate adjustments would have to be similarly adjusted. The municipality would be faced with administering two group life insurance cases with two different carriers with resulting complications.

G. FEDERAL SUBSIDIES TO STATE PLANS

The possibility has been considered of providing no Federal subsidy to state or municipal cases which have premiums below the premium authorized under the Federal plan. Such a course of action would produce several problems. First, the Federal plan would presumably not have a single composite rate for all participating groups but would rather have separate composite rates for each group based on the age and sex distribution of the group. Therefore, in order to determine whether an existing state plan qualified for subsidy, a calculation would have to be made to determine the premium the group would pay under the Federal plan. Groups paying rates just below that needed to qualify for a subsidy might be disturbed. As premium rates were changed from year to year, groups could go back and forth between a subsidy or no subsidy. In any event, state or municipalities with existing plans not qualifying for subsidies would almost certainly move their public safety officers into the Federal plan to qualify for the subsidy so that virtually all public safety officers would be covered by Federal subsidy in any event.

The committee is adjourned.

(Thereupon, at 12:05 p.m., the hearing was adjourned, subject to call of the Chair.)

(The following was subsequently received for the record:)

U.S. SENATE, COMMITTEE ON LABOR AND PUBLIC WELFARE, Washington, D.C., January 24, 1972.

Hon. John L. McClellan, U.S. Senate, Washington, D.C.

Dear John: Thank you very much for your thoughtful letter of January 10, 1972, and the copy of the "Victims of Crime Act of 1972" (S. 2994), which you introduced on December 11, 1971. I am delighted to know of your intention to act promptly on this important matter and I welcome the opportunity to join you. As you know, I strongly support the objective of compensating victims of crime for their losses. To achieve this aim, I introduced S. 2817 on November 5, 1971.

Your bill is a comprehensive approach to several facets of the problem of compensation for victims of crime. It combines features of several other bills into one package. I was pleased that you included some of the ideas which were first proposed in my bill, such as the provision for emergency awards and the requirement that the victim report the crime to law enforcement officials within seventy-two hours.

Although I do wish to co-sponsor S. 2994, it would be my intention to propose a few amendments for consideration. I was pleased to note in your floor statement that you will welcome suggestions to strengthen the bill. For your convenience, and in the hope that you will be able to consider them in your

Subcommittee's deliberations, I am outlining them below.

In its present form, the bill does not provide compensation for many cases of personal injury or death which result from the flight or pursuit of a criminal or suspected criminal. I strongly believe that this group of innocent citizens should be compensated for their losses incurred as a result of criminal activity.

S. 2994 would create a Violent Crimes Compensation Board in the Department of Justice to administer the program. I think this is preferable to the separate agency provided in S. 750. However, you may wish to consider whether it would be more efficient to put the program under the Secretary of Labor who currently administers compensation programs, with quite similar features, for several million workers.

The bill would establish a \$50,000 maximum compensation for a victim of crime. This limit is a significant improvement over that in S. 750. However, it would mean that an individual who is permanently disabled, or disabled for an extended period, will be inadequately compensated. A more equitable approach to the problem of adequate compensation is that used in England, where there is no ceiling but where compensation for loss of earning power can not exceed twice the average weekly industrial wage. Although this would permit substantially higher payments, I do not think it would greatly increase costs because the number of such cases would be small.

Another feature of my bill which I think deserves consideration is provision for pain and suffering. I recognize the administrative difficulties which such compensation presents. For that reason, I proposed a limit of \$10,000 on awards for this purpose. I think experience under other compensation programs shows

that this would be practicable.

The goal of compensating victims of crime should be to restore them to their position before the crime. Accordingly, I am concerned about the interpretation of the provision in S. 2994, to deny compensation unless "undue financial hardship" will result. The bill specifies that all of a victim's financial resources will be considered in determining need, but it does not define or establish standards for defining this phrase. If not revised or clarified, it might discriminate against victims of crime who have any savings at all and force them to use all of their resources before qualifying for any aid.

The absolute prohibition against compensation to any "member of the family" (not defined in the bill) of the criminal may be unduly harsh and could leave innocent children, for example, helpless. I think the provision in section 457(c) of S. 2994, relating to provocation, would eliminate many of the potential abuses. Others could be eliminated by denying compensation when "unjust enrichment"

would result.

S. 2994 would provide for grants to the states of 75 percent of the cost of compensation in programs similar to that authorized by the bill. While certain requirements are spelled out in the bill and provision is made for approval of the programs by the Law Enforcement Assistance Administration, such programs could, apparently, be substantially less comprehensive than the new Federal

program. For example, among those states that have established compensation programs, a number leave many of the victims without adequate compensation. Several states have a \$5,000 or \$10,000 maximum award. Only Maryland (for long-term disability) comes anywhere near the \$50,000 limit in S. 2994. If the Federal government is going to pay ¾ of the cost of a state compensation program, it should require that the program be at least equal to the federal program. This would be analogous to other Federal-State programs, such as the Wholesome Meat Act of 1967.

I hope that these comments on the "Victims of Crime Act of 1972" (S. 2994)

will be helpful to you and the committee.

With warmest personal regards.

Sincerely,

WALTER F. MONDALE.

[Excerpt from Congressional Record, Mar. 28, 1972, Senate pp. S 4863-64]

THE VICTIMS OF CRIME ACT-AMENDMENTS

AMENDMENTS NOS. 1087, 1088, AND 1089

(Ordered to be printed and referred to the Committee on the Judiciary.)

Mr. MONDALE. Mr. President, I am pleased to be one of the numerous cosponsors of S. 2994, the "Victims of Crime Act," introduced by the Senator from Arkansas (Mr. McClellan). This is a very comprehensive approach to several facets of the problem of compensating victims of violent crime which have been addressed in a variety of bills, Among them are S. 750, introduced by the distinguished majority leader (Mr. Mansfield) and my own bill, S. 2817.

I am delighted that S. 2994 has been scheduled for hearings on March 27. I hope the Senator from Arkansas, who chairs the Subcommittee on Criminal Laws and Procedures, will be able to report this measure to the Senate at an early date. Surely, the time has come when society should express its concern

for the innocent victims of violent crime.

I was gratified that a number of the provisions first proposed in S. 2817 were included in S. 2994. Among them are the provisions for emergency awards and the requirements that the victim report the crime to the authorities within 72 hours.

There are other features of S. 2994 which represent improvements over earlier bills. For example the \$50,000 limit on compensation in any one case will provide adequate assistance in the great majority of circumstances. At the same time, there will be a few cases—chiefly involving permanent disability for young heads of families—where even this figure will prevent making the victim whole, financially.

When I asked to cosponsor S. 2994, I stated my intention to propose a few amendments. The sponsor of the bill had invited such suggestions for improvements from his colleagues. It is my pleasure, today, to send to the desk three

amendments to S. 2994.

The first amendment refers to that portion of the bill which would provide grants to the States. The Federal Government would pay up to 75 percent of the cost of compensation in programs similar to that authorized by the bill. While certain requirements are spelled out and provision is made for Federal approval of the State programs, such programs could be substantially less compensative than the new Federal program. For example, all of the seven States that have established compensation programs would leave many of the victims without adequate compensation.

In several of the States, the maximum is only \$5,000 to \$10,000. In long-term disability or death cases, such a limit is wholly inadequate. Only New York places no limit on medical expenses, and it does limit all other payments. If the Federal Government is going to pay three-fourths of the cost of a State compensation program, I think it should require that the program be at least equal

to the Federal program.

Seven States have adopted compensation programs since California led the way in 1965. I hope that enactment of this legislation will spur the remaining States to action. But do we not have a responsibility to provide equal protection

to all of our citizens if some States choose not to adopt a program?

Experience in other Federal-State programs shows that most States will want to have their own programs. For example, under the Wholesome Meat Act of 1967, many States resisted a Federal takeover, even though it would have saved them money. I propose that we give the States 5 years to decide whether they want

to enact a satisfactory program. If not, we should then extend the scope of the Federal program to those States which have not adopted such a program.

Mr. President, my first amendment would accomplish the two purposes which

I have just described.

The second amendment provides a number of improvements. First, it authorizes compensation for those injured as a result of the flight or pursuit of a criminal or suspect. S. 2994 has a so-called Good Samaritan provision but it ignores this group of innocent citizens. I feel it very important that they receive compensation for their losses.

I also propose to provide limited compensation for pain and suffering. I recognize the fear of administrative difficulties which such a provision raises. For that reason. I propose a limit of \$10,000 on awards for this purpose. I think experience under other compensation programs show that this would be practicable.

I am concerned about the interpretation of the provision in the bill that would deny compensation unless "undue financial hardship" would result. This might become what is known as a needs test. The goal of any compensation program should be to restore the victim to his financial position before the crime. Accord-

ingly, I propose to eliminate this provision.

This amendment would also provide that 100 percent of all actual expenses related to the injury be compensated for, and that the victim receive remuneration for loss of earning power without an overall limit. However, such payments would be limited to a rate not to exceed twice the average weekly industrial wage. This may seem potentially very costly, but experience in similar programs suggests that very few settlements would involve large payments. In Great Britain, for example, where there is no ceiling, the average is about \$900.

Physical and occupational rehabilitation and training should reduce costs in the care of long term disability. Expansion of health insurance coverage will also help keep costs down under this program. Simple justice dictates that we

not cut off aid for the victim until his need has passed.

Finally, under this amendment, I would soften the prohibition against compensation to any "member of the family" of the criminal. This provision could leave innocent children, for example, helpless. I propose that compensation could be awarded as long as the agency determines that no unjust enrichment to or on behalf of the offender would result. The bill already prohibits payment where

there was provocation of the injury by the victim.

The bill under consideration provides for the creation of a Violent Crimes Compensation Board in the Department of Justice to administer the program. My third amendment would eliminate this Board and assign responsibility to the Secretary of Labor. This, I believe, would be more efficient, as the Secretary administers compensation programs, with quite similar features, for several million workers. He would, therefore, be equipped to take on this new program rapidly.

Our society has the responsibility to protect its citizens. Individuals are discouraged from carrying weapons for self defense, so when someone suffers an injury at the hands of a criminal, the Government has essentially failed in

its duty to that citizen. It is only fair that some restitution be provided.

These three amendments strengthen the protections offered in the bill. This is an issue affecting every member of our society and it is very important that the rights of the individual be preserved to the utmost. I hope the amendments will be agreed to.

Mr. President, I ask unanimous consent that the text of the three amend-

ments be printed in the RECORD.

There being no objection, the amendments were ordered to be printed in the Record, as follows:

[For text of amendments, see pp. 56-57]

Congress of the United States, House of Representatives, Washington, D.C., January 27, 1972.

Hon. James O. Eastland, Chairman, Senate Judiciary Committee, New Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: It has come to my attention that your Committee will be considering legislation known as the "Law Enforcement Officers Benefits Act". This legislation provides for the payment of a gratuity of \$50.000 to the survivors of police officers, correction officers, and firemen killed in the line of duty.

It is my hope that when you begin consideration of the bill you will keep in mind the very important and necessary contribution of the volunteer firemen throughout the nation, and that you will amend the bill to include these dedicated volunteers.

Thank you for your efforts in this regard. Sincerely,

PETER A. PEYSER.

AMERICAN BAR ASSOCIATION, SECTION OF CRIMINAL LAW, Chicago, Ill., January 11, 1972.

Hon, John L. McClellan, Chairman, Government Operations Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the comments of the Section of Criminal Law of the American Bar Association on Titles I and IV of S. 2994, the "Victims of Crime Act of 1972," which are now under consideration by the Subcommittee on Criminal Laws and Procedures.

Previously established positions of the American Bar Association are in accord with the general principles embodied in Titles I and IV of S. 2994, as docu-

mented and more fully explained herein.

TITLE I

In August of 1967, the American Bar Association's House of Delegates endorsed in principle legislation exemplified by S. 646, 90th Congress, suggesting that persons injured by certain criminal actions be compensated by the Government. This action resulted from a report and recommendation submitted by the Section of Criminal Law based on an analysis of that legislation. Since Title I of S. 2994 is in accord with the principles of S. 646, the Association's supportive action would apply to that extent.

Title I of S. 2994, similar to S. 646, provides for the compensation of persons injured by crime of violence committed in areas under the jurisdiction of the Federal Government, creates a three member Federal Violent Crimes Board to consider claims of those injured by criminal violence, and lists certain enumer-

ated crimes of violence for which compensation may be paid.

Provision is also made in S. 2994 for grants to the States to support similar

State programs. S. 646 contained no similar provision.

The concept of compensating victims of crimes of violence is not new. It is referred to in the ancient penal codes of Babylon, and Anglo-Saxon England. In recent years, it has been adopted in Great Britain and New Zealand. During the last decade seven States, including California (1965), New York (1966), Hawaii (1967), Massachusetts (1967), Maryland (1968), Nevada (1969) and New Jersey (1971), have adopted State legislation to compensate victims of violent crime.

The American Bar Association believes in the philosophy espoused by its Section of Criminal Law that it is entirely appropriate that we confront the problem of the victim of crime directly. Our Government has often and properly extended consideration and services to persons accused of crimes; hence it is only logical that we ask what about the victim? While the burden of the victim is not alleviated by denying necessary services to the accused, it is reasonable that the Government make an effort to reduce the impact of resulting injuries and losses to victims.

TITLE IV

Title IX of the Organized Crime Control Act of 1970 (P.L. 91–452), as originally proposed, authorized the Attorney General to use equitable remedies developed in the antitrust field as an additional tool to meet the problems posed by organized crime. At the suggestion of the American Bar Association initiated by the Section of Criminal Law. Title IX was, however, amended during the course of the legislative process to include a private right to treble damages along with attorney fees for those injured by violations of the Act. (See testimony of the ABA President-Elect Edward L. Wright, House Hearings on S. 30, 91st Cong., 2d Sess., pp. 543–44 (1970)). This recommendation was premised upon the belief that, since experience had shown that suits by private plaintiffs had become an important avenue of enforcement of the antitrust laws, the adoption

of as many of the procedures currently utilized in the antitrust field as possible might be a profitable course of action in any attempt to restrict the entry of organized crime into legitimate business.

Title IV of S. 2994 is designed to strengthen Title IX of the 1970 Act (18 U.S.C.

1964) in three broad ways:

(1) to facilitate the use of the private treble damages provision of current 18 U.S.C. 1963 (b);

(2) to minimize differences between the provisions of Title IX and the

current antitrust laws (15 U.S.C.); and

(3) to enable the provisions of Title IX to avoid certain shortcomings

which exist in the antitrust provisions.

The phrase "without regard to the amount in controversy" would be added to Section 1964 to indicate that the jurisdiction of the United States District Courts over cases authorized under the civil remedies sections of Title IX are "Federal question" cases and the jurisdiction of the Federal courts is not invoked on the basis of "diversity," which would require a minimum jurisdictional amount. (See 28 U.S.C. 1331, 1332.) This is comparable to the approach of the antitrust provision contained in 15 U.S.C. 15.

The proposed Section 1964(c) would permit a private party to invoke the equitable power of a Court as spelled out in Section 1964(a) including the power to order divestiture, dissolution and divorcement. While the courts have differed as to whether divestiture is a remedy available to private litigants (Antitrust Developments, 1955-68, Supplement to Report of the Attorney General's National Committee to Study the Antitrust Laws, 1955 (ABA, 1968) and (1968-69 Supp.), the amended version of Section 1964(c) is a codification of the way in which some courts have been interpreting 15 U.S.C. 26. See, e.g., Burkhead v. Phillips Petroleum Co., 308 F. Supp. 120 (N.D. Col., 1970).

Proposed Section 1964(d) would permit the United States to bring a civil action to recover damages for violations of Section 1962. Such a cause of action is

virtually identical to that afforded the Government by 15 U.S.C. 15a.

Proposed Section 1964(e) would make Title IX's provision regarding private suits and the measure of damages, costs and fees conform to 15 U.S.C. 15.

Section 1964(f) as proposed by Title IV would authorize intervention by the United States upon certification by the Attorney General that ". . . the case is of general public importance." This has no explicit counterpart in the anti-

trust provisions.

Section 1964(g) would have several effects. First, the unavailability of consent judgments would be eliminated. Second, while under the antitrust provision matters litigated in an earlier case decided in favor of the United States are termed prima facie evidence, under the proposed amendment they would be given the effect of estoppel. (See Kroman, "The Antitrust Plaintiff Following in the Government's Footsteps," 16 Villanova Law Review 57 (1970).)

Finally, Section 1964(h) would bring the statute of limitations provisions of Title IX into substantial conformity with 15 U.S.C. 16(b). Differences would exist as to the suspension provisions and the general period of limitation (five years rather than four under 15 U.S.C. 16(b), but generally the interpretive

case law would be applicable to both types of proceedings.

As indicated earlier, we are in general accord with bringing the procedural aspects of Title IX into line with the antitrust provisions of Federal Law. On August 7, 1968, the House of Delegates of the Bar Association endorsed not only S. 2048 and S. 2049, 90th Cong., 2d Sess., but "all similar legislation having the purpose of adopting the machinery of the antitrust laws to the prosecution of organized crime . . ." (See 93 ABA Reports (1968), 665-669).

S. 2048 would have amended the Sherman Act to make it a violation of the antitrust laws to invest intentionally unreported income in any business enterprise, while S. 2049, in essence, would have made it a criminal offense to apply the income received from enumerated criminal activities to any business enter-

prise.

To aid in enforcement, S. 2049 also authorized the issuance of injunctions at the request of either the Government or a private party. Treble damage suits were also authorized and provision was made for nationwide service of process.

Since the amendments Title IV would make to Title IX of the 1970 Act are consistent with the proposals contained in S. 2048 and S. 2049, they are in accord with the aforestated official positions of the American Bar Association.

I trust that this communication will be of some assistance to you and thank you for the opportunity to comment upon these measures.

Sincerely,

WILLIAM H. ERICKSON, Chairman.

STATEMENT OF QUINN TAMM, EXECUTIVE DIRECTOR, INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE, IN SUPPORT OF "VICTIMS OF CRIME ACT OF 1972"

Mr. Chairman and members of the Subcommittee on Criminal Laws and Procedures, my name is Quinn Tamm and I am the Executive Director of the International Association of Chiefs of Police (IACP).

The Association is professionally recognized as the official voice of executive

law enforcement throughout the country.

On behalf of the more than eighty-five hundred police officials who comprise our membership, I welcome this opportunity to offer this statement in support of the "Victims of Crime Act of 1972" and related matters. The IACP supports titles 1, 3, 4, and 5 and the concepts embodied in title 2 without specific reference to either S. 2994, S. 33, or S. 1946.

In contemporary criminal justice proceedings, a common inequity appears to be part of a general breakdown of trust and respect which our citizens hold

for the democratic legal processes of our nation.

I refer to the fact that innocent victims of violent crime are required to support

their assailants without hope or promise of retribution.

If I may, I would like to describe a hypothetical situation, which is admittedly removed from the context of our presentation, but which I believe suitably focuses

attention on the problem.

In the instance of innocent persons maimed or killed by the perpetrator of a violent and unlawful act, the victims or their survivors become directly involved with contributing to the costs of investigation, arrest, prosection, and subsequent maintenance of the criminal throughout his term of incarceration.

To the bereaved widow and orphans of the slain victim, these costs must be

considered merciless.

This condition also must be considered as contributive to the fact that many of our citizens regard the system as serving the criminal more than it does the victim.

The total frustration and helplessness exeprienced by our crime victims contribute greatly to the breakdown of respect for the law to which I referred.

Neither the distinguished members of this Subcommittee nor the law enforcement community would want to see the constitutional rights of the defendant restricted; but federal assistance, of equal regard to innocent citizens whose lives are torn apart by vicious acts of violence, is a concept deserving of our efforts as a nation of free men.

In its seven-point proposal to reduce crime in America, the President's Commission on Law Enforcement and Administration of Justice said, ". . . the system of criminal justice must eliminate existing injustices if it is to achieve its

ideals and win the respect and cooperation of all citizens . . . "

As early as 1966, at the 73rd Annual Conference of the IACP held in Philadelphia, police executives of the nation demonstrated their concern for compensation to innocent victims of violent crime by unanimously passing a resolution titled, "Indemnifications to Crime Victims."

I would like to offer, as supportive evidence of our position, the complete text

of that resolution.

"Whereas, the Supreme Court of the United States has, in its recent rulings, expressed considerable concern for the rights of the criminal defendant: and

"Whereas, more and more protection is being given to such persons, particularly indigent defendants; and

"Whereas, little concern is expressed for the victims of violent crime and their

families; and

"Whereas, the image of justice could be materially enhanced by legislation which would indemnify the victims of crimes of violence and/or their surviving kin:

"Now, therefore, be it resolved that the International Association of Chiefs of Police go on record as advocating that suitable legislation be enacted either in the states or on the federal level, to provide for reasonable indemnification to the victims of violent crime and/or their surviving kin."

We believe that such a federal program would be a forward step toward eliminating a general unwillingness, on the part of our citizens, to come forward as witnesses in criminal cases.

We believe that such a vote of confidence, on the part of our government, will

create a greater response in reporting violent crime by our citizens.

We believe that such change in the criminal justice system, encompassed in the bill before you now, will do much to dispel ideas that government is unresponsive to the needs of the citizens.

With regard to title two and three of the proposed bill, compensation for death and injuries to our nation's police officers has also been the subject of great con-

cern to the members of IACP.

Since July 1, 1970, reports received by the IACP Police Weapons Center indicate that 163 of our nation's police officers were killed in criminal assaults with

An additional 2,531 have been injured.

In one incident, two patrolmen responded to a telepehone plea from a woman who reported that her sister was having a baby and needed help.

When the officers were unable to get any response at the address given, one

walked to the rear of the building.

He heard a shot, and returned to the front to find his partner dead from a highpowered rifle bullet fired from across the street.

The false complaint was clearly an ambush with the killing of a police officer-

any police officer—as the only motive.

In another case reported to our National Bomb Data Center, the police department of a major city received a telephone report of a woman screaming in a vacant residence.

Police officers who responded found only a suitcase inside the door of the

residence.

When it was examined, the resulting explosion killed one officer and injured seven others.

The person who committed this murder did not know who his victims would be. All he knew, and all that he intended, was that one or more police officers would be blown to death when they responded to the call for help.

The person, or persons, who planned and carried out the crime had one sure

factor they could rely on.

They could be sure the police would respond to a call for assistance. Our files are replete with accounts of tragedies such as this.

Entrapment of public safety officers was the reported intent behind 3 bombing incidents in 1971.

And public safety harassment accounted for 53 others.

Fourteen police officers were injured in explosive or incendiary incidents during that time.

In incident after incident, we find further evidence of efforts to remove the police from our streets through terrorism.

Think, for a moment, of the consequences to our society if that should happen. The vanguard position of the police must be recognized and protected.

Several pieces of legislation, presently being considered, offer some relief from the torment of this growing menace.

Among them are the bills now before you for deliberation. Historically, federal legislation in this regard has been commendable. On April 19, 1968, Congress passed Public Law 90-291 authorizing dependent's compensation for police officers killed in the line of duty while enforcing federal

On June 16, 1968, Public Law 90-351 amended the April law to allow compensation for non-federal officers killed in the line of duty if the crime was even

suspected of being a federal offense.

Compensation under these acts is administered by the Bureau of Employee Compensation of the U.S. Labor Department if survivors make application for benefits through a lawyer.

Police officers killed on duty while enforcing other laws receive some coverage through state and local laws, workmen's compensation, group life insurance,

and charitable donations.

All too often, the painfully slow administration of such benefits by their various city, state, and federal sponsors poses serious hardships to surviving families.

Compensation differs in each state and has as many variations as there are

individual agencies.

The inequities of many of these various plans often force widows and orphans of slain police officers to seek relief from welfare and social agencies.

Let me offer some figures on police salaries and benefits that will point up the

need for such a plan.

In the major metropolitan cities with populations of more than 500,000, the average annual maximum wage for police patrolmen is \$9,048. In cities with a population base between 250,000 and 500,000, the average annual maximum is \$8,778. Where population ranges from 100,000 to 250,000 policemen receive a maximum average of \$8,008. Cities with populations between 50,000 and 100,000 are paying \$8,198 per annum for police patrolmen. The smaller cities of 25,000 to 50,000 report police salary averages at \$7,935 and cities below 25,000 pay a median of \$7,320.

These wages range from a low of \$3,552—dangerously close to the poverty

level—to a high of \$14,052; a fair living wage.

Salary medians for police officers fall below the pay scales for those positions we may refer to as non-professional semi-skilled labor. These include truckers, construction workers, steelworkers, stevedores, longshoremen, and others.

The skilled tradesmen—electricians, plumbers, plasterers, carpenters, etc.—receive wages on a parity with our highest paid police officials. The median annual salary for a Chief of Police in cities with a population base from 500,000

to 1,000,000 is \$24,566.

In our research into the death and disability benefits for police officers, we have found several policies which require a higher premium payment than that required for other positions of the same income level. Ostensibily, this is due to the "high risk" nature of police work.

We do not believe the police officer should have to pay a premium just for being a policeman, nor are we seeking special status for policemen. Premium rate should conform to those established by group coverage of comparable

positions.

In 37 major cities surveyed by the Kansas City, Missouri Police Department in 1970, 14 had no provisions whatsoever for natural death except those covered by pension. In 9 cities, there was no coverage for line of duty deaths, excepting pension benefits. Many of these relied on donations and contributions to cover funeral expenses. Under pension plan death benefits, compensation ranged from 20 per cent to 100 per cent of the salary for patrolmen awarded to surviving widow and children.

Benefits under pension provisions are generally allotted to surviving widow until she remarries and dependent children until they reach the age of majority. Again, definitions of surviving family and dependent children and age of majority differ from state to state and benefits suffer through local interpretations.

Death and disability benefits are presently inadequate and, at best, are difficult to administer due to the immense variations from city to city and state to

state.

Benefits under these provisions range from \$200 to \$400 per month for the surviving widow until she remarries and dependent children until they reach the age of majority.

Again, definitions of surviving family and age of majority differ from state to

state and benefits suffer through local interpretations.

Death benefits for service connected fatalities often provide a percentage of the officer's salary.

For first year officers, salaries range from \$4,575 to \$11,112.

These figures are published in the 1970 Comparative Data Report of the IACP's State and Provincial Police Division and the 1970 Kansas City, Missouri Police Survey of Municipal Police Departments.

Throughout the research into these benefits, however, weaknesses and poor

administration of compensation benefits are obvious.

In many cases, administrative red tape and procedures will tie up funds for

years before any actual benefits are realized.

Ideally a single federally sponsored and administered law will alleviate the weaknesses in processing payments and provide a more uniform compensation across the country.

The law enforcement community of the United States needs this law.

We must not and cannot, in good conscience, turn our backs on the anguish and poverty suffered by the survivors of law enforcement officers slain while protecting our rights and liberties.

The internal security of the United States depends upon the police officer as

its first line of defense.

That perimeter is weakening.

It is being assailed by factions of our society who would destroy our democratic system of government through violence.

It is being undermined by the perfidy of public apathy.

And, it is being threatened by legislative indifference and painfully slow court-room machinery.

The social challenge of the seventies has placed the police officer in the front

line

They have met that challenge courageously and honorably. Many have died. Thousands have been injured.

Individual agencies are doing everything possible within their own budgetary and statutory limitations.

A federal benefits program would do much in raising the compensation benefits to a level befitting the services that these men are called upon to perform.

Your deliberations carry immense responsibility.

I am sure your decisions will be appropriate.

Thank you.

Criminal Injuries Compensation Board, 10 Russell Square London,

January 5, 1972

Senator John L. McClellan,

U.S. Senate, Committee on the Judiciary, Washington, D.C.

Dear Senator McClellan: Thank you for your letter of 20 December 1971. I shall be glad to give you any help I can. I must make it plain that these views expressed are my own and do not represent the views of the Minister concerned or of the Home Office.

I do not propose to deal with the need for your bill, which is in my view manifest, but rather to draw attention to the differences between it and the British Scheme and to point out some of the problems we have encountered in administering our Scheme.

I have gone through your Bill section by section and make the following

comments:

Page 6—line 22 § 451:

Our Board consists of 9 part time members instead of your 3 full time members. All our members are practicing lawyers which means they are familiar with the level of damages recovered in the Courts and may have more independence of thought than is usually attributed to civil servants. On the other hand it is difficult for 9 part time members to achieve uniformity of approach to the questions raised by Section 457(c) (the behaviour of the victim) and 464(c) (timeous report to the Law Enforcement officers).

Page 11—line 21 § 456(a):

We have not and do not seek the power to subpoena witnesses, to call for documents or to take evidence on oath. Our procedure at hearings is very informal and we look at statements made to the police by witnesses who will not attend although invited to do so. We are however careful not to attach a deal of importance to such statements especially if they tend to exculpate the maker. You will have observed that we evolved a novel method of dealing with applications which we call the "Single Member Procedure". The staff obtain (a) a police report (b) medical reports (c) a report from the employer concerning wages lost by the applicant and (d) a report from the Ministery of Social Security showing the benefits paid to him. These reports together with the victim's application form are then put before a single member who either

(a) Awards compensation in full, or (b) makes an award reduced by reason of the victim's behaviour, or (c) rejects the claim, or (d) refers it to

three members at a hearing.

It may seem contrary to natural justice that the victim does not see the reports and is not seen or heard by the single member but the safeguard is that if the victim is dissatisfied with the decision he is entitled, as of right, to a hearing The award by the single member is really no more than an offer which can be accepted by the applicant. If it is not accepted the decision is made by three other members who have not seen any document which the applicant has not seen and who hear the evidence in the presence of the applicant. You will also have observed from Appendix C of our Sixth Report that only 2.3% of those who obtained an award demanded a hearing and 63% of those whose claims were rejected on the merits did not take the matter to a hearing.

This novel and cheap procedure has, in our view, provided a great success and the underlying concept might one day be extended to disputes between Insurance Companies and the victims of motor vehicle accidents.

Page 12—line 12 § 456(3):

Our hearings are in private (much to the annoyance of the newspapers) but I think that this will have to be changed and the Press admitted, provided that they are prohibited from revealing the identity of the victim when reporting the hearing. No award is made until the criminal trial is over.

Page 14—line 7 § 457(c):

We have moved away from the original concept of the share of responsibility. If the responsibility for a crime is shared between the offender and the victim it may be thought that the offender will always have to bear more than half of the blame. We have found this the most difficult part of the Scheme to administer. Should awards be made to persistent and violent criminals? Does the serving of a sentence by an offender wipe the slate clean? Should the victim have a duty to care for his own safety even if this means abandoning some of his rights? e.g. to walk through Central Park after dark.

I assume that the opening words "In determining whether to order a payment under this section the Board may consider any circumstances it considers to be relevant" are intended to give the Board a complete discretion to make a reduced award or a nil award but it might be argued that the discretion is limited to refusing an award and that the power to reduce an award is limited to cases where the victim, because of provocation or otherwise, bears a share of responsibility for the crime. I am afraid there is no way in which responsibility of the victim for the crime can be defined in an Act. The circumstances are so diverse that it must be left to the Board to thread its way through the labyrinth.

Page 15—line 4 § 458(a):

We do not enumerate the crimes covered by the Scheme and we use the phrase "crime of violence including arson and poisoning" rather than crime involving the use of force.

In our Sixth Report paragraph 7(1) we cited the case of the taxi standing on a bill which was set in motion by the release of the brake and held that this was a crime of violence. We have found it very difficult to draw the line between accident caused by negligence and a crime of violence.

Page 16—line 2 § 458(b):

We have paid compensation to those injured by get away cars fleeing from a bank robbery holding that the injuries were directly attributable to the robbery.

Page 16—line 12 § 459:

This useful provision is not contained in our Scheme and I hope it will be put into our next re-draft of the Scheme.

Page 17—line 5 § 461(a):

We do not pay legal expenses. Where the victim is an infant the reasonable costs of legal representation comes out of the award.

Page 17—line 20 § 462:

We give compensation for pain and suffering. This enables us to compensate pensioners who are frightened to death by burglars and those who are disabled but sustain no pecuniary loss.

Page 18—line 7 § 464(a):

Fortunately for us we do not have to consider financial hardship. The number of rich men who apply to us is minimal and we find that Paragraph 11 of the Scheme gives sufficient protection against such claims.

Page 18—line 17 § 464(b):

It is very difficult to bring the provisions of any act or scheme to the notice of the Public and it might be well to give the Board power to waive this requirement.

Page 18—line 24 § 464(c):

We have drawn the attention of the Home Office to the position of infant members of the criminal's family. While there is a case for excluding the wife, I. personally find it difficult to justify the exclusion of the baby or the au pair girl or servant. Provided steps could be taken to safeguard the money so that the offender cannot benefit from his crime, I see no reason why the infant members of the family or the members of the household should be excluded.

Page 19—line 5 § 464(e):

We are entitled to waive the requirement that where there is no prosecution the circumstances of the injury must be reported to the police without delay. We have found this discretion very difficult to exercise.

Fear of reprisals is not generally accepted as a valid excuse although in one case when the victim's pregnant wife received dire threats concerning herself and her children we departed from our usual practice.

A reasonable belief that the incident has been reported by a third party or by the hospital to which the victim was taken or that the injury sustained was too trivial to interest the police (but which was in fact an injury which ultimately turned out to be serious) have been accepted as reasons for waiver.

Page 19-line 11 § 464:

We fortunately have no upper limit. Our highest award was £51,000 to a woman who was blinded and rendered a physical wreck after a brutal attack on her, but we should welcome the power to moke periodic payments or a lump sum award or both.

I have limited my observations to Part A of your most interesting Bill. If I can be of any further assistance do not hesitate to let me know.

With my warm regards,

Yours sincerely,

WALKER CARTER, Chairman.

CRIMINAL INJURIES COMPENSATION BOARD—SIXTH REPORT—ACCOUNTS FOR THE YEAR ENDED 31ST MARCH, 1970

(Presented to Parliament by the Secretary of State for the Home Department and the Secretary of State for Scotland by Command of Her Majesty, October, 1970)

London,
HER MAJESTY'S STATIONERY OFFICE,
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SIXTH REPORT OF THE CRIMINAL INJURIES COMPENSATION BOARD

To the Secretary of State for the Home Department, the Secretary of State for Scotland.

SIRS: We have the honour to submit this our Sixth Report.

1. Volume of work

The number of new applications for compensation received in each quarter of the year 1st April 1969 to 31st March 1970 compared with the two previous years was as follows:—

	1969-70	1968-69	1967-68
1st quarter (Apr. 1 to June 30)	1, 683 1, 723 1, 836 2, 005	1, 610 1, 501 1, 598 1, 728	1, 010 1, 000 1, 632 1, 674
Total	7, 247	6, 437	5, 316

In our Fifth Report we forecast the receipt of 7.000 applications this year. We considered that there was a levelling out in the rate of growth of our work but it will be seen that the figures are still growing and we forecast at least 8,000 applications in the year 1970–71.

The analysis of these figures in Appendix A shows that the increase in the number of applications from Scotland was only 11, whereas there were 730 more

cases from England and 69 more from Wales.

2. Number of cases resolved

6,817 cases were resolved as shown below:-

	1969	9–70	1968	3-69	1967	-68
	Number	Percent	Number	Percent	Number	Percent
By single members	6, 093 600 124	89 9 2	5, 478 434 73	92 7 1	3, 583 238 48	93 6 1
Total	6, 817		5, 985		3, 869	

It will be seen that there is again a rise in the percentage of cases disposed of at hearings. See paragraph 12 below.

The following table shows the time taken to resolve applications:-

[In percent]

	1969-70	1968-69	1967-68
Not more than 3 months More than 3 months but not more than 6 More than 6 months but not more than 9 More than 9 months but not more than 12 More than 12 months More than 12 months More	39	31	27
	39	42	44
	15	17	19
	5	7	7
	2	3	3

The increased percentage of cases resolved in not more than three months demonstrates the ability of the Board's staff to deal speedily with straight-forward cases. Although the final disposal of cases of more serious injury may take longer, an interim payment may be made as soon as it is established that the case comes within the scope of the Scheme. The number of interim awards made was 510, compared with 234 in 1968–69 and 185 in 1967–68.

3. The cost of the Scheme

Wa

OW MOM	igiand		1, 024, 000
ales	otland		386, 750
	ales		85, 735
		•	

Total ______ 1, 996, 584

Since the Scheme began on 1st August 1964 we have paid out £6,313,624. The administrative expenses for the year 1969–70 were £207,686, representing 9.4 per cent of the total expenditure, compared with 9.6 per cent in 1968–69. The average cost of a case resolved at single member stage was £23 3s. 0d., a decrease of 17s. 0d. on the cost in 1968–69. In cases which went to a hearing before three members the additional average cost was £66 16s. Od., compared with £74 0s. 0d. last year. The total average cost of each case resolved at a hearing was therefore £89 19s. 0d.

4. The working of the Scheme

The great bulk of our work consists of assessing the compensation which should be paid to applicants who are plainly the innocent victims of criminal assaults. After six years' experience we repeat the observations made in paragraph 15 of our First Report:—

"It is true that many of the applications submitted relate to comparatively minor injuries and the compensation paid is correspondingly small. But no one who is called to deal with those cases in which a blameless victim has been seriously disabled, sometimes for life, or with those cases in which the elderly and infirm have suffered injury and shock, can fail to feel deeply what a worthwhile part is played in the full administration of justice by the power to award compensation."

The object of the Scheme is to ensure that the innocent victims of crimes of violence are compensated and that in appropriate cases the application is either rejected altogether or a reduced award made. There are not clear and distinct lines which can be drawn to separate these three classes.

In the following paragraphs we discuss at some length borderline cases which such difficult problems but it must be remembered that they represent only a fraction of our work.

5. The modified Scheme

The modified Scheme (see Appendix F) came into effect on 21st May 1969 and was intended to strengthen the Board's hand to reject undeserving cases. Before the Scheme was modified, we were required, under paragraph 12, to consider whether because of provocation or otherwise, the victim bore any share of responsibility, and in accordance with our assessment of the degree of responsibility, to reduce the award or reject the claim altogether. Paragraph 17 of the modified Scheme superseded paragraph 12, and gave us a wide discretion to reduce an

award or reject a claim altogether if, having regard to the victim's conduct, including his conduct before and after the incident, and to his character and way of life, we consider that it is inappropriate that he should receive a full award or any award at all. This discretion has not been easy to exercise for we are not all of one mind and the diversity of the circumstances of the cases which come before us is very great. We are anxious to produce a consistent approach to the problem and have a set out in this report a number of typical cases illustrative of the way in which the Board have applied paragraph 17.

Voluntary participation in a fight

(1) An applicant became involved in a fight with his assailant, whom he knew to be violent, and was injured. No weapons were used, and we were satisfied that the applicant willingly entered the fight. Following decisions in similar cases under the unmodified Scheme, we refused an award.

(2) We have made reduced awards to applicants injured in fights which began in similar circumstances, but which took a turn which could not be foreseen, as

follows :-

(a) The applicant was in a public house, when a man with whom he was on bad terms entered, and the applicant persistently offered to fight him outside. The man eventually agreed after he and the licensee had unsuccessfully tried to get the applicant to keep quiet. In the fight the man knocked the applicant down, and while he lay helpless on the ground the offender kicked and stamped on his head, fracturing his cheekbone, jaw and skull. We made an award, albeit a reduced one, on the grounds that the violence used was out of all proportion to

the provocation offered.

(b) An applicant and his assailant started to fight in a club, and both fell downstairs. The applicant injured his ankle. They were then thrown out into the street. The applicant told the assailant he could no longer defend himself, but the assailant knocked him to the ground and fractured his jaw. The applicant first told the police that he had received his injury by falling down stairs, and he did not wish to make a statement. Later he made a full statement and the assailant was charged and acquitted. The applicant's original failure to co-operate with the police and his voluntary participation in a fight were reprehensible and we made a reduced award.

(3) We made a reduced award to an applicant who accepted a challenge to fight, and during the fight was struck on the head from behind by his opponent's

wife, using a broken chair leg.

Conduct, character and way of life

(4) A single member rejected the application of a professional housebreaker who in the early hours of the morning was disturbed by one of the occupants of the house he had broken into. He ran away and the householder discharged his shotgun in the general direction of the housebreaker's retreating figure, peppering him with shot. We did not consider that it was appropriate that those injured

whilst engaged in criminal activities should receive an award.

(5) (a) Taking into account the applicant's character and way of life we refused an award to a man who was assaulted and severely injured outside a public house. He had numerous convictions over a period of 18 years, mostly for offences involving dishonesty. His assailants were known to him and there was some suggestion of an earlier incident to which the assault may or may not have been related. We considered that it was inappropriate that public money should be spent on compensating the applicant for injuries received in an assault for which no satisfactory explanation exculpating him was given.

(b) But we made an award to a young man who was slashed with a razor after leaving a public house where he and his wife had been listening to a pop group. He had a number of convictions for theft, but for two years had been in regular employment. We were satisfied that he was the victim of a brutal and motiveless assault, which was wholly unconnected with his former way of life. It was

therefore appropriate that he should receive a full award.

6. Reporting to the police

The original Scheme provided that compensation would not be payable unless the circumstances of the injury had been reported to the police without delay, or had been the subject of criminal proceedings in the courts. The requirement could be waived, but the conduct of the applicant after the incident in which he received his injury could not be taken into account. The requirement is repeated

in paragraph 6(b) of the modified Scheme, while paragraph 17 enables us to take into consideration the applicant's conduct both before and after the incident.

We have always considered that when an applicant reports an incident to the police he must report the full circumstances of his injury and that he does not fulfill the requirements by reporting such of the circumstances as he chooses.

We attach great importance to these two provisions, for if violent crime is to be contained it is essential that the police should be informed as soon as possible, and that the victim should give them every assistance in bringing the offender to justice. We do not therefore waive the requirement of paragraph 6(b) save in exceptional circumstances.

(1) (a) We waived the requirement in the case of a 6 year old boy, who lost his eye when hit by a piece of slate deliberatley thrown at him by a playmate. The boy's father did not report the circumstances to the police for a month. The as-

sailant was not charged because of his age.

(b) We also waived the requirement in a case where we were satisfied that the applicant had reasonable grounds for believing that the circumstances had been reported to the police.

(c) But we refused to waive the requirement in the case of an applicant of full age, who did not report an incident in the street in which he received a broken jaw, although we were satisfied that his case was in other respects within the Scheme.

(2) An applicant who refused to give a full description of the incident and told the police that he knew who his assailants were and would deal with them himself, was refused an award.

(3) The full circumstances of the injury must be reported.

(a) A youth was assaulted outside a fish and chip shop and his girl friend made a 999 call to the police. By the time they arrived the youth and his girl friend had gone to hospital and the proprietor of the shop was unable to give the police any information. The youth received out-patient treatment for three weeks and then reported to the police.

(b) The father of an applicant reported to the police that his son had been admitted to hospital but was not himself able to give any information as to the circumstances. When seen by the police the applicant refused to give any infor-

mation

Both these applicants were refused awards:

(4) We have held that fear of reprisals is no ground for waiving the requirement, and we disallowed the claim of two brothers who did not report the incident until their assailants were in custody awaiting trial on other more serious charges.

(5) (a) An applicant did not report to the police until six weeks after he was injured. His assailant was then prosecuted and pleaded guilty. Although the provisions of paragraph 6(b) were complied with in that the matter was the subject of criminal proceedings, we made a reduced award because of his conduct in fail-

ing to play his part in bringing the offender to justice.

(b) But we made a full award to an applicant who was advised by the police after investigation, that the appropriate charge against his assailant would be for common assault contrary to section 42, Offences Against the Person Act 1861. After consulting his union he told the police that he did not wish them to take any further action. A summons for assault, which would have barred his civil claim, could not be issued without his consent and we did not consider his conduct such as to require a reduction under paragraph 17.

7. The crime of violence

(1) Another change in the Scheme was to require the applicant to show that his injuries were directly attributable to a crime of violence (including arson and poisoning) whereas under the former Scheme he was only required to show that his injuries were directly attributable to a criminal offence. One of the reasons for this change is that a breach of the Factory Acts is a criminal offence and the Scheme was plainly never intended to permit an application to the Board instead of an action for breach of the statutory duty imposed by the Factory Acts.

(a) We made an award to a boy whose injuries were directly attributable to a breach of section 2 of the Explosive Substances Act 1883. The boy and his friends were walking through a wood when they saw a burning rope hanging from a tree. They tried to put it out but there was an explosion and the boy received an injury to his face. The rope was identified by the police as a piece of fuse, and there were a number of detonators attached to it. These had recently been stolen from a nearby quarry, but the culprits were not traced.

(b) We also made an award to a pedestrian who was knocked down by a driverless taxi which had been set in motion by two drunken men after an argument with the driver, who had gone to fetch the police. The criminal act of the two men was likely to result in personal injury to those lawfully using the high-

way and was thus a crime of violence.

(2) We decided that in order to obtain an award for personal injuries directly attributable to an arrest of a suspected offender, an applicant must satisfy us that he himself was taking part in an arrest or attempted arrest. We therefore refused to make an award to a woman in a multiple store who was accidentally knocked over when a store detective was chasing a suspected shoplifter.

8. The improvident applicant

We have found the discretion under paragraph 18 to make special arrangements for the administration of any money awarded as compensation most useful.

In a case where a substantial sum of money is involved and we doubt whether the applicant, though of full age, will use it wisely we invite him or her to submit a plan showing how it is proposed to use the money. We may suggest that the applicant should consult a solicitor or a bank manager and take active advice before submitting the plan to us and asking for the release of the money. It is not possible, or perhaps desirable, for us to supervise the spending of the money, but this procedure ensures that consideration is given to the problem and that the danger of frittering away the compensation is brought home to the applicant.

9. Members of the family

(1) The amendment to paragraph 7 (which excludes the claim of a victim who was living with the offender at the time as a member of the same family)

clarifies the position of persons living together as man and wife.

(a) An applicant associated with a merchant seaman for a number of years. He regarded her home as his, and stayed there when he was not at sea. He contributed regularly to housekeeping expenses, and she prepared his meals and did his washing. He usually occupied a single room, but they slept together from time to time. He was anxious to marry her, but she refused. After a quarrel over the question of marriage he assaulted her. Her claim was rejected.

(b) An applicant was assaulted by his wife's brother, whom he reluctantly agreed to allow to stay in his house on release from Borstal. The assailant was not provided with a room, but slept on a couch in the kitchen. He paid no rent, was not given a door key, and was given meals about twice a week. He had been told to go as soon as he could find other accommodations. The applicant's claim

was disallowed.

10. Nil and reduced awards

The number of claims rejected and the number of reduced awards are as follows:—

	1969	-70	1968		1967-	
	Number	Percent	Number	Percent	Number	Percent
Rejected	1, 079 340	15 5	852 232	14 4	331 148	9

We have continued to apply the principle that it is for the applicant to make out his case and in order to receive a full award he must satisfy us not only that his injuries were directly attributable to a crime of violence but also that his

conduct, character and way of life does not disentitle him.

(a) An applicant, drinking with his friends in a public house, got involved in an argument, and he received cuts on his face from broken glass. No question of amnesia arose but by reason of the amount of drink he had taken the applicant could not remember how he received his injury. His friends heard a commotion and the sound of breaking glass at the other end of the bar; they did not see

what happened. We made no award.

(b) On the other hand, we made an award to an applicant who was blinded by shotgun pellets, although the man who fired the gun was acquitted. He was walking in front of the applicant, carrying a shotgun which he knew to be loaded. He turned round, put the gun to his shoulder and aimed at the applicant and the gun went off. The gun was in good condition, and required a trigger pressure of at least $4\frac{1}{2}$ lbs. We were satisfied that on balance of probabilities

the gun was not fired accidentally and that an offence under section 20, Offences

Against the Person Act 1861, had been committed.

(c) A bus caught fire, and one of the passengers who was injured by jumping from the top deck applied for compensation. The fire started when a container of inflammable material, probably petrol, ignited. The container was brought on to the bus by an unidentified passenger, who, before the fire started, was seen to be smoking. He was never traced. We decided that the fire was caused by the negligent act of the unidentified passenger, which did not constitute a crime. He committed an offence under the Public Service Vehicle Regulations 1936 by bringing the container on to the bus, but the applicant's injuries were not directly attributable to that offence.

11. Law enforcement

15 awards were made to persons who were injured while assisting the police to prevent a crime being committed or to effect an arrest. The numbers in previous years were:—

1968–69, 19; 1967–68, 19.

132 awards were made to persons who attempted to prevent a crime or arrest an offender, a small increase over the numbers in previous years which were:—

1968-69, 121; 1967-68, 100.

Awards to policemen on duty number 851 compared with 704 in 1968-69.

12. Hearings

600 cases were decided at hearings representing 9 per cent of all cases resolved compared with 7 per cent in 1968-69, 6 per cent in 1967-68, and 5 per cent in 1966-67. Of these 600, 122 concerned the amount of the award, 384 concerned a refusal of compensation on the merits, and 41 a refusal under the low limit; 53 were referred by a single member. Full details are to be found in Appendix C.

Hearings were held on 114 days, of which 37 were in London, 44 in English

provincial cities, 30 in Scotland and 3 in Wales.

The high percentage of cases in which the amount of the award was increased at a hearing might be thought to cast doubt on the validity of the single member

procedure but we are confident that such doubt is unjustified.

Firstly, only 23 applicants out of 1,000 question the amount of the award made by the single member. Secondly, when requesting a hearing the applicant often puts forward some new head of claim or disability which he has not previously mentioned. Thirdly, a medical prognosis which is too optimistic may well lead to a hearing, whereas one that is less optimistic will not. Fourthly, whereas in the Courts an appeal is only allowed if the original award was wholly erroneous, we rehear the case and sometimes make a very small increase in the single member's award.

We are satisfied that the single member procedure works well and is both expeditious and inexpensive and that the right to demand a hearing provides a

sufficient safeguard.

It will be seen that after rejection by the single member on the merits 148 applicants obtained awards at the hearing and 236 did not. Less than 40 per cent achieved any benefit from requesting a hearing. Furthermore, 62 per cent of those applicants whose claims were rejected by the single member accepted his rejection although they had nothing to lose by demanding a hearing.

13. Reparation from offenders

There were only 19 cases where we felt that we could usefully sue the offender if we had the power to do so. The comparable figure in 1968–69 was 21. One case where reparation has been made is worthy of mention. Four years ago we made an interim award of £1,000 to a boy of 9 who was blinded because another boy threw lime into his eyes. The victim was taken into a convent to be educated and trained and although we were anxious that the award should be used for his benefit, the interest earned on the money was more than enough to meet his needs. Subsequently damages were recovered in an action brought on the boy's behalf in the Courts and the £1,000 was repaid under paragraph 24 of the Scheme.

We would like to repeat the tribute we paid in paragraph 14 of our Fourth Report to the help given to the Board by welfare organisations and local authorities.

14. Staff

We have always believed that subject to proper investigation, cases should be disposed of as quickly as possible, so that applicants may derive the maximum

benefit from their awards. Over the past few years, the number of cases at any one time under investigation by the staff has been between 2,600 and 3,000, representing about 4½ months' intake of new cases.

Although the time taken to investigate a case depends to some extent on factors outside our control, we keep our procedures under constant review, in the

hope of improving these figures.

Over the past three years there has been an average increase in productivity of 10 per cent a year—arrived at by dividing the cases finally disposed of during the year by the number of staff in post. Recently, however, we have had a large influx of new staff, partly due to an increase in our complement by 7 to 65, and partly to the termination of the secondment of experienced officers. This has resulted in a drop in the number of completed cases which we hope will be only temporary.

In estimating our staff requirements, it should be recognised that while the volume of work continues to increase, and while our staff is temporarily seconded from other departments, a proportion of the staff will always be under training

and not fully effective.

If allowance is not made for these factors, we will be faced with an everincreasing load of pending cases, to the detriment of the staff's efficiency and

morale.

In February, the secondment of Mr. J. Hamilton was terminated at very short notice, when he was posted on promotion to the Immigration and Nationality Department. He had been the Board's Chief Executive Officer since the Scheme started, and we wish to record our great appreciation of his services, particularly in the fields of finance, statistics and public relations. During that time he devoted himself without stint to the work of the Board, and we have every reason to be grateful to him for the part he played. We welcome Mr. F. Carter as his successor.

(Signed) WALKER CARTER, Chairman,

SEPTEMBER 1, 1970.

CRIMINAL INJURIES COMPENSATION BOARD ACCOUNT OF RECEIPTS AND PAYMENTS IN THE YEAR ENDED MAR. 31, 1970

	1968-69	Estimate	Actual
RECEIPTS Balance, Apr. 1, 1969	£33		£19, 479
Grant-in-aid from the vote for Home Office (class III, 1) Repayment of compensation recovered by victims from offenders Miscellaneous receipts	1, 870, 000		2, 220, 000 2, 436 24
Total	1, 870, 634	2, 327, 300	2, 241, 939
PAYMENTS			
Administration expenses: Staff salaries, wages, national insurance and superannuation liability Board members' fees	95, 712 25, 642	106, 400 29, 300	112, 136 29, 664
Travelling, etc., expenses of board members and staff Furniture and accommodation	4, 587 26, 378	4, 700 25, 550	4, 931 27, 151
Office supplies, stationery, etc	1, 955 3, 833	2, 400 3, 400	3, 728 8, 173
Miscellaneous expenses: Medical, etc., fees. Advertising and publicity	18, 085 23 185	23, 700 100 100	19, 209 154 92
Total	1, 672, 958 1, 797	195, 650 2, 130, 000 1, 650	205, 238 1, 992, 402 2, 448 41, 851
Total	1, 870, 634	2, 327, 300	2. 241. 939

¹ See report and appendices for details.

NOTES

Sept. 4, 1970.

^{1.} This account covers expenditure throughout Great Britain. A contribution of £465,400 to the Home Office vote towards the board's expenses in Scottish cases was made from the Scottish Home and Health Department vote (class III, 2).

^{2.} Compensation paid by the board on behalf of child victims is held in trust until they reach the age of majority. At Mar. 31, 1970 the board held £69,103 on deposit account pending the drawing up of deeds of trust etc.; £33,055 was held in 576 ordinary accounts and £158,491 in 532 investment accounts in the board's name at the department for national savings.

I have examined the above Account. I have obtained all the information and explanations that I have required, and I certify, as the result of my audit, that in my opinion the above Account is correct.

(Signed) B. D. Fraser, Comptroller and Auditor General.

Exchequer and Audit Department, Sept. 28, 1970.

APPENDIX A

APPLICATIONS RECEIVED AND RESOLVED, COMPENSATION PAID AND POSITION AT MAR. 31, 1970

1. Applications received: (a) 1964-55 (8 months). (b) 1965-66		England	Scotland	Wales	Total
Applications resolved: (a) Withdrawn/abandoned: (b) 1964-65 (8 months). (c) 1965-66. (d) 1965-66. (d) 1965-67. (d) 1967-88. (e) 1967-88. (f) 1967-88. (f) 1967-89. (f) 1969-70. (f) 1044. Total of 2(a). (b) No award made: (f) 1966-65 (8 months). (f) 1966-65 (8 months). (f) 1966-65 (8 months). (f) 1966-65 (8 months). (f) 1967-88. (g) 1967-88. (g) 1967-88. (g) 1967-89. (g) 1967-99. (g) 1967-89. (h) 1968-99. (h) 1967-89. (h) 1967-89. (h) 1968-99. (h) 1967-89.	(b) 1965-66 (c) 1966-67 (d) 1967-68 (e) 1968-69	1 961 2 546 3, 730 4, 658	391 633 1, 381 1, 555	100 133 205 224	2, 452 3, 312 5, 316 6, 437
(a) Withdrawn/abandoned: (i) 1964-65 (8 months). (ii) 1965-66. 18 2 1 21 (iii) 1965-67. 44 8 1 53 (iv) 1967-68. 37 8 3 48 (v) 1967-68. 37 8 3 3 48 (v) 1967-69. 55 12 5 73 (vi) 1969-70. 104 13 7 124 Total of 2(a). 266 44 17 327 (b) No award made: (i) 1964-65 (8 months). 7 1 8 (ii) 1965-66. 156 25 9 190 (iii) 1965-66. 156 25 9 190 (iii) 1966-67. 189 64 7 260 (iv) 1967-68. 219 100 12 331 (v) 1968-69. 524 302 26 852 (vi) 1969-70. 707 338 34 1, 079 Total of 2(b). 1, 802 830 88 2, 720 (c) Awards made: (i) 1964-65 (8 months). (ii) 1965-66. 962 153 49 1, 164 (iii) 1966-67. 1, 833 472 99 2, 404 (iv) 1967-68. 2, 580 769 141 3, 490 (iv) 1967-68. 2, 580 769 141 3, 490 (iv) 1967-68. 3, 634 1, 220 206 (vi) 1969-70. 4, 247 1, 155 212 5, 614 Total of 2(c). 3, Compensation paid: (a) 1964-65 (8 months). (b) 1965-66. 304, 799 87, 778 104 14 402, 718 (c) 1966-67. 3, 634 1, 220 206 (vi) 1969-70. 4, 247 1, 155 212 5, 614 Total of 2(c). 3, Compensation paid: (a) 1964-65 (8 months). (b) 1965-66. 304, 799 87, 778 10, 141 402, 718 (c) 1966-67. 690, 013 191, 338 32, 810 91, 416 (c) 1967-68. 987, 920 250, 035 55, 817 1, 293, 772 (e) 1968-69. 1, 1968-69. 2, 283 (d) Awaring applicants' decisions. 494 126 21 641 (e) Under investigation. 2, 237 627 101 2, 965	Total of 1	18, 760	5, 582	976	25, 318
(b) No award made: (i) 1964-65 (8 months) 7 1 8 (ii) 1965-66 156 25 9 190 (iii) 1966-67 189 64 7 260 (iv) 1967-68 219 100 12 331 (v) 1968-69 524 302 26 852 (vi) 1969-70 707 338 34 1,079 Total of 2(b) 1,802 830 88 2,720 (c) Awards made: (i) 1964-65 (8 months) 100 11 3 114 (ii) 1965-66 962 153 49 1,164 (iii) 1965-67 1,833 472 99 2,404 (iv) 1967-68 2,580 769 141 3,490 (v) 1968-69 3,634 1,220 266 5,060 (vi) 1969-70 4,247 1,155 212 5,614 Total of 2(c) 13,356 3,780 710 17,846 3. Compensation paid: (a) 1964-65 (8 months) £26,670 £6,138 £623 £33,431 (b) 1965-66 304,799 87,778 10,141 402,718 (c) 1966-67 650,013 191,333 32,810 914,161 (d) 1967-68 987,920 250,035 55,817 1,293,772 (e) 1968-69 1,198,769 381,611 92,578 1,672,958 (f) 1969-70 1,524,099 386,750 85,735 1,996,584 Total of 3 4,732,270 1,303,650 277,704 6,313,624 4. Position at 31.3.70: (a) Cases resolved 15,424 4,654 815 20,893 (b) Interim cases not finally assessed 15,424 4,664 815 20,893 (b) Interim cases not finally assessed 19,965 44 4,664 815 20,893 (c) Hearing and referred cases pending/adjourned 189 79 15 24 643 (d) Awaiting applicants' decisions 494 126 21 641 (e) Under investigation 2,237 627 101 2,965	(a) Withdrawn/abandoned: (i) 1964-65 (8 months) (ii) 1965-66 (iii) 1966-67 (iv) 1967-68 (v) 1968-69	18 44 37 56	8 8 12	1 3 5	21 53 48 73
(i) 1964-65 (8 months) 7 1 8 1906-66 156 25 8 190 (iii) 1965-66 156 25 8 190 (iii) 1965-67 189 64 7 260 (iv) 1967-68 219 100 12 331 (v) 1968-69 524 302 26 852 (vi) 1969-70 707 338 34 1,079 Total of 2(b) 1,802 830 88 2,720 (c) Awards made: (i) 1964-65 (8 months) 100 11 3 114 (ii) 1965-66 962 153 49 1,164 (iii) 1965-66 962 153 49 1,164 (iii) 1965-67 1,833 472 99 2,404 (iv) 1967-68 2,580 769 141 3,490 (v) 1968-69 3,634 1,220 206 5,060 (vi) 1969-70 4,247 1,155 212 5,614 (iii) 1965-66 3962 353 (iii) 1969-70 4,247 1,155 212 5,614 (iii) 1965-66 304 3,780 710 17,846 (iii) 1965-66 1968-69 1,19	Total of 2(a)	266	44	17	327
(c) Awards made: (i) 1964-65 (8 months).	(i) 1964-65 (8 months). (ii) 1965-66 (iii) 1966-67. (iv) 1967-68. (v) 1968-69.	189 219 524	25 64 100 302	7 12 26	190 260 331 852
(i) 1964-65 (8 months). 100 11 3 114 (ii) 1965-66 962 153 49 1, 164 (iii) 1966-67 1, 1, 833 472 99 2, 404 (iv) 1967-68 2, 580 769 141 3, 490 (v) 1968-69 3, 634 1, 220 206 5, 060 (vi) 1969-70 4, 247 1, 155 212 5, 614 Total of 2(c) 13, 356 3, 780 710 17, 846 3. Compensation paid: (a) 1964-65 (8 months) £26, 670 £6, 138 £623 £33, 431 (b) 1965-66 304, 799 87, 778 10, 141 402, 718 (c) 1966-67 690, 131 191, 338 32, 810 914, 161 (d) 1967-68 987, 920 250, 035 55, 817 1, 293, 772 (e) 1968-69 1, 198, 769 381, 611 92, 578 1, 672, 958 (f) 1969-70 1, 196, 196, 196, 196, 196, 196, 196, 1	Total of 2(b)	1, 802	830	88	2,720
3. Compensation paid: (a) 1964-65 (8 months) (b) 1965-66 (c) 1966-67 (d) 1967-68 (e) 1968-69 (f) 1967-68 (g) 1968-69 (g) 1968-69 (g) 1968-69 (h) 1967-68 (h) 1967-69 (h) 1967-69 (h) 1967-69 (h) 1967-69 (h) 1968-69 (h) 1968-69 (h) 1968-69 (h) 1969-70 (h) 1524, 099 (h) 1969-70 (h) 254, 099 (h) 1969-70 (h) 1969-70 (h) 254, 099 (h) 1969-70 (h) 1969	(i) 1964-65 (8 months) (ii) 1965-66 (iii) 1966-67 (iv) 1967-68 (v) 1968-69 (vi) 1969-70	962 1, 833 2, 580 3, 634 4, 247	153 472 769 1, 220	49 99 141 206	1, 164 2, 404 3, 490 5, 060
(a) 1964-65 (8 months)	Total of 2(c)	13, 356	3, 780	710	17, 846
4. Position at 31.3.70: 15, 424 4, 654 815 20, 893 (b) Interim cases not finally assessed 416 96 24 536 (c) Hearing and referred cases pending/adjourned 189 79 15 283 (d) Awaiting applicants' decisions 494 126 21 641 (e) Under investigation 2, 237 627 101 2, 965	(a) 1964-65 (8 months). (b) 1965-66 (c) 1966-67. (d) 1967-68. (e) 1968-69.	304, 799 690, 013 987, 920 1, 198, 769	87, 778 191, 338 250, 035 381, 611	10, 141 32, 810 55, 817 92, 578	402, 718 914, 161 1, 293, 772 1, 672, 958
(a) Cases resolved	Total of 3	4, 732, 270	1, 303, 650	277, 704	6, 313, 624
Total (as total of 1) 18,760 5,582 976 25, 318	(a) Cases resolved	416 189 494	96 79 126	24 15 21	536 283 641
	Total (as total of 1)	18, 760	5, 582	976	25, 318

¹When the board's books were closed for the financial year the value of uncleared payable orders was £4,182. This represents the difference between the figure shown above and the "Compensation paid" figure in the board's accounts,

APPENDIX B
APPLICATIONS RESOLVED AND COMPENSATION PAID

		Apr. 1, 1968, to Mar. 31, 1969	to Mar.	31, 1969				Apr. 1, 1	969, to M.	Apr. 1, 1969, to Mar. 31, 1970			_ <	otals for
1	England	Scotland		Wales	Total	England	and	Scotland	pu	Wales		Total	to A	to Mar. 31, 1970
	Number Percent Number	Number Perce	nt Numb	er Percent N	umber Percen	t Number	Percent N	lumber P	ercent No	ımber Perc	ent Num	ber Perce	nt Num	er Percent
1. Applications withdrawn/abandoned	56 1	12		5	73	1 104	2	13 .		7		124	2	327 2
(a) Full awards (c) Reduced awards (c) No awards (low limit) (d) No awards (low limit)	3, 321 56 139 2 104 2 326 5	1, 120 45 48 157	119	187 3 10 7 14	4, 628 194 159 497	78 3,791 3 200 3 135 8 402	56 2 2 6	1, 023 74 27 213	15	189 10 8 21	3 2,	5, 003 284 170 636	74 16, 2 2 2 9 1, 5	228 78 762 3 565 3 515 7
Total of single member decisions accepted	3, 890 65	1, 370	23	218 4	5, 478	92 4, 528	19	1, 337	61	228	3 6,	6, 093	89 19, 070	70 91
3. Decisions taken at hearings: (a) Full awards(b) Reduced awards.	146 2	46		∞-	200	3 208 1 48	en	50		13		271 56	1	22 3
(c) No awards (low limit)(d) No awards (others)	861	95	2	5	186	3 157	2	93	2	4		19	4	598 3
Total of hearings decisions	268 4	152	3	14	434	7 426	9	156	33	18		600	9 1,	1, 496 7
Compensation paid [2(a)(b) and 3(a)(b)	£1, 177, 383	£378,728	58	£88, 344	£1, 644, 455		£1, 429, 104	£3	£355, 532	£80,835	835	£1, 865, 471	11	£6, 135, 988
ment not made at Mar. 31, 1970	21, 386	2,8	883	4, 234	28, 503	23	94, 995		31, 218	4,	006	131, 113	13	177, 636
Total compensation paid	1, 198, 769	381, 611	11	92, 578	1, 672, 958		1, 524, 099	8	386, 750	85, 735	735	1, 996, 584	84	6, 313, 624

Note: (a) Where the percentage is much less than 1, no entry has been made; (b) interim awards were made in 687 cases between 1.8.64 and 31.3.69; (c) interim awards were made in 510 cases between 1.4.69 and 31.3.70; total interim awards, 1,197. At 31.3.70 there were 122 of these not finalized; at 31.3.70 there were 122 of these not finalized; at 31.3.70 there were 414 of these not finalized; interim awards not yet finalized, 536.

APPENDIX C
OUTCOME OF AWARDS AND DECISIONS MADE BY SINGLE MEMBERS

	A	Apr. 1, 1968 to Mar. 31, 1969	. 31, 1969		A	Apr. 1, 1969 to Mar. 31, 1970	эг. 31, 1970		
	England	Scotland	Wales	Total	England	Scotland	Wales	Total	Aug. 1, 1964 Mar. 31, 1970
Award made by single member, and: (a) Accepted by applicant (b) Confirmed at a hearing (c) Reduced at a hearing (d) Charged to no awarf at a haring	3,460	1, 165	197 1	4, 822 20 3	3, 991 21 3	1, 097	199	5, 287	16, 990 70 10
(e) Increased at a hearing	90	6	2	.19	76	13	4	93	241
Total. Percentage of cases which went to a hearing. Percentage of applicants successful at a hearing.	3, 530 2. 0 71. 4	1, 175 8 90.0	201 2.0 50.0	4, 906 1.7 72.6	4, 092 2. 5 75. 2	1, 114 1. 5 76. 5	203 2.0 100.0	5, 409 76. 2	17, 314 1.9 74.4
Application rejected by single member on merits, and: (a) Accepted by applicant. (b) Continend at a hearing. (c) Changed to an award at a hearing.	326 76 73	157 89 32	14 5	497 170 109	402 145 109	213 87 33	21 4 6	636 236 148	1, 515 552 353
Percentage of cascs which went to a hearing. Percentage of applicants successful at a hearing.	475 31.4 49.0	278 43.5 26.4	23 39.1 44.4	776 36.0 39.1	656 38.7 42.9	333 36.0 27.5	32.3 60.0	1,020 37.6 38.5	2, 420 37. 4 39. 0
Application rejected by single member by reason of low limit, and:									
(a) Accepted by applicant (b) Confirmed at a hearing (c) Changed to an award at a hearing	104 8 11	48	7	159 10 17	135 13 19	27 5 1	2 1 8	170 19 22	565 42 73
Total Percentage of cases which went to a hearing Percentage of applicants successful at a hearing	123 15.4 57.9	56 14.3 75.0	0 0	186 14. 5 63. 0	167 19. 2 59. 4	33 18.2 16.7	27.3 66.7	211 19.4 53.7	680 16.9 63.5
Applications referred to a hearing by single members resulted in:			Management of the control of the con						
(a) Award being made (b) No award being made.	20 10	7 6		28 16	28	21∞	-	37	109
Total	30	13	1	44	39	13	1	53	152

APPENDIX D
ANALYSIS OF NO AWARD CASES

	, 1964, to 1970	Percent		37	4	22	14	, (76	J	16	m	100
	otal Aug. 1, Mar. 31,	(Number)		1,001	112	/09	385		19	ď	421	71	2, 720
		Percent		40	~:	/1	17	c	70	,	19	2	100
0, 1970	Total	(Number)		428	15	189	180	30	123		202	23	1,079
Apr. 1, 1969, to Mar. 31, 1970	Molos	(Number)		14	70	ת	4	-	-		4		34
Apr. 1, 19	Cootload	(Number)		125	4 6	35	88	o	0 4	:	4,	7	338
	Fnaland	(Number)		289	140.0	140	87	16	13		124	17	707
		Percent		40	27.4	0.7	16	2	2	;	14	7	100
, 1969	Total	(Number)		338	160	604	134	19	14	***	124	ET	852
Apr. 1, 1968, to Mar. 31, 1969	Waloc	(Number)		01	٦,		2			¢	g	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	26
Apr. 1, 19	Scotland	(Number)		123	5 م	8	71	7	. 9	ć	32	2	302
	Fnotand	(Number)		205			19		∞		00		524
	Reason for application being	disallowed	Eligibility not established on balance	of probabilities	I ow limit	No prosecution and circumstances not	reported without delay	family	Injury caused by a motoring offence.	7. Applicant's conduct, character or way	All others		Totals

APPENDIX E

ANALYSIS OF THE 20,893 CASES FULLY RESOLVED BETWEEN AUG. 1, 1964 AND MAR. 31, 1970

	England	p	Scotland	pı	Wales			Total		
	Number	Average award	Number	Average award	Number	Average	Number	Number Compensation	Average	Percentage of total
1. Applications withdrawn/abandoned	266		44		17	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	327 -			1.6
2. Single members decisions accepted: (a) Full awards (b) Full awards after interim(s) (c) Reduced awards (d) Reduced awards (e) No awards (low limit) (f) No awards (others)	11, 677 467 532 14 434 434	£272 1, 374 314 1, 362	3, 358 73 181 181 4 108 471	£ 297 1, 312 386 541	620 33 31 23 51	£278 939 200	15, 655 573 744 18 565 1, 515	£4, 347, 863 768, 376 243, 290 21, 230	£278 1, 341 1, 179	74.9 2.7 3.6 2.7 7.3
Total of 2	14, 117	316	4, 195	323	758	306	19, 070	5, 380, 759	317	91.3
3. Results of hearings before 3 members: (a) Full awards. (b) Full awards after interim(s). (c) Reduced awards. (d) Reduced awards after interim(s). (e) No awards (low limit). (f) No awards (others).	445 47 89 89 30 318	657 1, 460 582 2, 371	109 6 23 11 224	507 983 432	20 3 1 13	6, 545	574 56 56 113 4 42 42 555	356, 526 94, 142 62, 224 9, 485	621 1, 681 551 2, 371	2.7.2
Total of 3	933	722	373	515	38	1, 207	1, 344	522, 377	669	6.4
Results of cases referred to 3 members: (a) Full awards. (b) Reduced awards (c) No awards (diw limit). (d) No awards (other)	1 68 3 13	2, 136 2, 263	2 22 4	1, 141	2	15, 065	92 17	200, 451 32, 401	2, 179 1, 906	4.
Total of 4	108	2, 156	42	1, 080	2	15, 065	152	232, 852	2, 136	7.
All cases resolved Aug. 1, 1964 to Mar. 31, 1970	15, 424	345	4, 654	335	815	379	20, 893	6, 135, 988	344	100.0

Note: The compensation paid in the 536 interim awards cases not finalized is £177, 636. The total of compensation paid Aug. 1, 1964 to Mar. 31, 1970 is therefore £6,313,624.

¹ Includes 6 full awards after interim. 2 Includes 1 full award after interim. 3 Includes 3 reduced awards after interim.

APPENDIX F

CRIMINAL INJURIES COMPENSATION SCHEME

The Scheme for compensating victims of crimes of violence was announced in both Houses of Parliament on 24th June 1964, and in its original form came into operation on 1st August 1964.

The Scheme has since been modified in a number of respects. The revised

Scheme which came into operation on 21st May 1969, is set out below.

Requests for application forms and all inquiries should be addressed to:

The Criminal Injuries Compensation Board.

Russell Square House, 10-12 Russell Square. LONDON WC1B 5EN Tel. 01-636 2812

THE SCHEME

Administration

1. The Compensation Scheme will be administered by the Criminal Injuries Compensation Board, appointments to which will be made by the Home Secretary and the Secretary of State for Scotland, after consultation with the Lord Chancellor. The Chairman will be a person of wide legal experience, and the other members, of whom there are at present eight, will also be legally qualified. The Board will be assisted by appropriate staff.

2. The Board will be provided with money through a Grant-in-Aid out of which payments will be made to applicants for compensation where the Board are satisfied, in accordance with the principles set out below, that compensation is justified. Their net expenditure will fall on the Votes of the Home Office and the

Scottish Home and Health Department.

3. The Board will be based on London but may establish offices outside London if the need arises. They will hold hearings in London, Edinburgh, Cardiff

and elsewhere as necessary.

4. The Board will be entirely responsible for deciding what compensation should be paid in individual cases and their decisions will not be subject to appeal or to Ministerial review. The general working of the Scheme will, however, be kept under review by the Government, and the Board will submit annually to the Home Secretary and the Secretary of State for Scotland a full report on the operation of the Scheme, together with their accounts. The report and accounts will be open to debate in Parliament. In addition the Board may at any time publish such information about the Scheme and their decisions in individual cases as may assist intending applicants for compensation.

Scope of the Scheme

5. The Board will entertain applications for ex gratia payment of compensation in any case where the applicant or, in the case of an application by a spouse or dependant (see paragraph 12 below), the deceased, sustained in Great Britain, or on a British vessel, aircraft or hovercraft, on or after 1st August 1964 personal injury directly attributable to a crime of violence (including arson and poisoning) or to an arrest or attempted arrest of an offender or suspected offender or to the prevention or attempted prevention of an offence or to the giving of help to any constable who is engaged in arresting or attempting to arrest an offender or suspected offender or preventing or attempting to prevent an offence. In considering for the purpose of this paragraph whether any act is a criminal act, any immunity at law of an offender, attributable to his youth or insanity or other condition, will be left out of account.

6. Compensation will not be payable unless the Board is satisfied—

(a) that the injury was one for which compensation of not less than £50 would be awarded; and

(b) that the circumstances of the injury have been the subject of criminal proceedings, or were reported to the police without delay; and

(c) that the applicant has given the Board all reasonable assistance, particularly in relation to any medical reports that they may require.

Provided that the Board at their discretion may waive the requirement in

7. Where the victim who suffered injuries and the offender who inflicted them were living together at the time as members of the same family no compensation will be payable. For the purposes of this paragraph where a man and woman were living together as man and wife they will be treated as if they were married to one another.

8. Traffic offences will be excluded from the Scheme, except where there has

been a deliberate attempt to run the victim down.

9. The Board will scrutinise with particular care all applications in respect of sexual offenses or other offenses arising out of a sexual relationship, in order to determine whether there was any responsibility, either because of provocation or otherwise, on the part of the victim (see paragraph 17 below), and they will especially have regard to any delay that has occurred in submitting the application. The Board will consider applications for compensation arising out of rape and sexual assaults, both in respect of pain, suffering and shock and in respect of loss of earnings due to pregnancy resulting from rape and, where the victim is ineligible for a maternity grant under the National Health Scheme, in respect of the expenses of childbirth. Compensation will not be payable for the maintenance of any child born as a result of a sexual offence.

Basis of compensation

10. Subject to what is said in the following paragraphs, compensation will be assessed on the basis of common law damages and will take the form of a lump sum payment, rather than a periodical pension. More than one payment may, however, sometimes be made—for example, where only a provisional medical assessment can be given in the first instance.

11. Where the victim is alive the amount of compensation will be limited as

follows-

(a) the rate of loss of earnings (and, where appropriate, of earning capacity) to be taken into account will not exceed twice the average of indus-

trial earnings* at the time that the injury was sustained;

(b) there will be no element comparable to exemplary or punitive damages.

12. Where the victim has died in consequence of the injury no compensation will be payable for the benefit of his estate, but the Board will be able to entertain claims from his spouse and dependents. For this purpose, compensation will be payable to any person entitled to claim under the Fatal Accidents Acts 1846 to 1950 or, in Scotiand, under the appropriate Scotlish law. Subject to what is said in the following paragraphs the amount of compensation will be governed by the same principles as under those provisions; the total income of the deceased, earned and unearned, to be taken into account being subject to the limit specified in paragraph 11(a) above. Where the victim's funeral expenses are paid by any person for whose benefit an action may be brought under the Fatal Accidents Acts or the appropriate Scottish law, whether or not there is any financial dependency, the Board may pay that person a reasonable sum in respect of funeral expenses less any death grant payable under the National Insurance Scheme, For this purpose paragraph 6(a) above shall not apply.

13. Where the victim has died otherwise than in consequence of the injury, the Board may make an award in respect of loss of wages, expenses and liabilities incurred before death as a result of the injury where, in their opinion, hardship to dependants would otherwise result, whether or not application for

compensation in respect of the injury has been made before the death.

14. Compensation will be reduced by the value of any entitlement to social security benefits payable by the Department of Health and Social Security (and of payments made under Treasury authority by analogy with the National Insurance (Industrial Injuries) Act) which accrues as a result of the injury or death to the benefit of the person to whom the award is made.

15. If in the opinion of the Board an applicant may be eligible for any social security benefits or payments mentioned in paragraph 14 the Board may refuse to make an award until the applicant has taken such steps as the Board consider

reasonable to claim these benefits or payments.

16. Where the victim is alive the Board will determine on the basis of the common law whether, and to what extent, compensation should be reduced by any pension accruing as a result of the injury. Where the victim has died in consequence of the injury, and any pension is payable for the benefit of the person to whom the award is made as a result of the death of the victim which would not have been payable, or would not have been so large, if this injury had not been sustained while on duty or in the performance of a duty connected with his employment, the compensation will be reduced by four-fifths of the value of that pension, or as the case may be, by four-fifths of the increase of the value attributable to the injuries having been sustained in that way. For the purposes of this paragraph, "pension" means any pension payable in pursuance of pension rights connected with the victim's employment, and includes any gratuity of that kind.

^{*}Average weekly earnings for men $(21\ {
m years\ and\ over})$ as published in the Employment and Productivity Gazette.

17. The Board will reduce the amount of compensation or reject the application altogether if, having regard to the conduct of the victim, including his conduct before afid after the events giving rise to the claim, and to his character and way of life it is inappropriate that he should be granted a full award or any award at all.

18. The Board will have discretion to make special arrangements for the ad-

ministration of any money awarded as compensation.

Procedure for determining applications

19. Every application will be made to the Board in writing as soon as possible after the event on a form obtainable from the Board's office.

20. Applications will be sifted initially by the Board's staff, who will seek further information as to the relevant circumstances and, where necessary, medical

advice.

21. The initial decision whether the application should be allowed (and, if so, what amount of compensation should be offered) or should be rejected will normally be taken by one member of the Board, whose decision will be communicated to the applicant: if the applicant is not satisfied with that decision, whether because no compensation is offered or because he considers the amount offered to be inadequate, he will be entitled to a hearing before three other members of the Board, excluding the one who made the initial decision. It will, however, also be open to the single member, where he considers that he cannot reach a just and proper decision, himself to refer the application to three other members of the Board for a hearing.

22. At the hearing, it will be for the applicant to make out his case; he and a member of the Board's staff will be able to call, examine and cross-examine witnesses. The Board will reach their decision solely in the light of the evidence brought out at the hearing, and all the information before them will be available to the applicant. While it will be open to the applicant to bring a friend or legal adviser to assist him in putting his case, the Board will not pay the costs of legal representation. They will, however, have discretion to pay the expenses of

witnesses.

23. Procedure at a hearing will be as informal as is consistent with a proper

determination of the application, and the hearing will be in private.

24. It is not intended that a person who has pursued a claim for damages for personal injuries should obtain compensation from the Board in respect of those injuries in addition to obtaining satisfaction from that claim; and compensation will be reduced by any sum which the victim has received in pursuance of an order for compensation by a criminal court in respect of his injuries. Furthermore, a person who is compensated by the Board will be required to undertake to repay them from any damages, settlement or compensation he may subsequently obtain in respect of his injuries.

[Printed in England by Her Majesty's Stationery Office at St. Stephen's Parliamentary Press]

[Gallup Poll, for release Friday, Oct. 29, 1965]

PUBLIC FAVORS COMPENSATION FOR FAMILIES OF MURDER VICTIMS

PRINCETON, N.J., October 28.—Some 2.000 years before Christ, the Code of Hammurabi, King of the Babylonians, provided compensation for the families of murder victims.

Now, nearly 2,000 years after Christ, the same proposal has come up for legis-

lative action here in the U.S.

Governor Nelson Rockefeller, of New York, has appointed, within recent days, a committee to look into the proposal of giving financial aid to victims of violent crimes and to their families. The committee will report in time for the next legislature to act on his proposal.

The State of California introduced this idea on an experimental basis in July of this year. A similar plan was put into operation in England and in New Zea-

land last year.

When the question as to whether the public believes that the state bears a responsibility to help the innocent victims of violent crimes was put to a representative group of American voters, a sizable majority took the position that this is a proper function of the state.

The question asked: "Suppose an innocent person is killed by a criminal—do you think the state should make financial provision for the victim's family?"

Here is the public's reaction to this proposal:

Compensation for crime victims

Perc	cent
State should aid victims	62
Should not	29
No opinion	9

The issue cuts across party lines and little difference is found among those who identify themselves as Republicans, Democrats, or Independents. Republicans vote 61 per cent to 32 per cent in favor: Democrats 64 per cent to 27 per cent: Independents 59 per cent to 32 per cent.

Not only is there little difference between parties, but the number who approve is substantial in all the chief areas of the country, as the following figures

indicate:

[In percent]

	Approve	Disapprove	No opinion
East	65	23	12
	56	34	10
	67	26	7
	59	37	4

The cost of such a program on a nationwide basis can only be estimated roughly. It has been estimated that it would amount nationally to 14 million dollars compared with the 250 million dollars paid out by the employer workmen's compensation system for persons involved in accidents at work.

U.S. SENATE,
OFFICE OF THE MAJORITY LEADER,
Washington, D.C., March 15, 1972.

Hon. John L. McClellan, Chairman, Criminal Laws and Procedures Subcommittee, Senate Judiciary Committee, Washington, D.C.

Dear John: Professor James Brooks of New Mexico State University has undertaken a survey of various criminal victim compensation programs. He has compiled the results in the form of six tables which compare these programs from the standpoint of such factors as Board membership, the definition of compensable crimes, exclusions and so forth.

I think Professor Brooks has performed a valuable service in undertaking this investigation. I think, too, it would be helpful if the results of this survey were made a part of the hearing record on S. 2994, the Omnibus Criminal Victim bill. I therefore submit these tables together with the covering letter that was transmited to the various compensation boards involved and ask that these materials be included in the hearing record on this matter.

With warm regards, I am

Sincerely,

MIKE MANSFIELD.

(Enclosures.)

NEW MEXICO STATE UNIVERSITY,
DEPARTMENT OF GOVERNMENT AND PHILOSOPHY,
Las Cruces, N. Mex., August 16, 1971.

Dear Sir: The attached questionnaire is being sent to members of crime compensation boards in Great Britain, New Zealand, New York, California, Hawaii, and Maryland. This attitude survey seeks to learn the opinions that have been formed as a result of the member's work in this new area. This project is being conducted in conjunction with the preparation of a doctoral dissertation for the Department of Political Science at The University of Oklahoma, Norman, Oklahoma. The responses will be consolidated and will not be identified by jurisdiction or respondant. From the responses, it is hoped that "model" recommendations can be suggested for those jurisdictions that may adopt crime compensation programs in the future.

Your assistance will be most highly appreciated.

Please indicate whether you desire a summation of the responses: Yes ————;

Sincerely,

James Brooks, Assistant Professor.

TABLE 1,---ATTITUDE SURVEY: CRIME COMPENSATION BOARD MEMBERSHIP

Other	Medical training qualification for perhaps 1 member. Medical training qualifications for members.	Medical training qualifications for 1 member.	Do. Medical training qualifications for 1 member. Medical training qualifications	ž	Do. Do.	Do.	Do. Members should have experience with personal injury	and criminal cases. None.	- Do.	. Bipartisan board.	. Medical training qualifications for 1 member.	Qualifications: Business per- sonnel management and legal.
Full time or part time	Full time	Part time at first; full time as work-	Part time	Charman; full time; members; part	Part ti nedodo	- do	f do	ф фо	As required	. Full time.	Part time.	Part time
Salary	Annual or per work-	Annual or per working day.	Annual Per working day	Per working day	do do Per working day	Per working day	Related to volume of of work.	ор	Daily fee, part	Annual	Yes, 1 member only Per working day	Per working day.
Legal qualifications	Yes; admitted to practice for at least 10 years. Yes; minimum of 5 years experience	Chairman qualified for judicial office. Yes, for 1 or 2 members only.	yes Yes, for only 1 member. Yes.	. Yes	Yes Yes Yes	Yes -	Yes	Yes	Yes	. Yes	. Yes, 1 member only.	No
Subject to reappoint- ment	Yes	Not speci- fied.	YesYes.	Yes	Yes	Yes.		:		Yes	Yes	Yes
Staggered terms	Yes	Not speci- fied.	Yes	Yes	No No No	No		:		Yes	Yes.	No
Length of term (years)	5 to 7	Not specified	5 to 8	7	らして	Subject to de- termination.	No limit, save age. No set term	- op-	No fimit	7	4	At pleasure of Governor.
How chosen	Statute should state	Appointment by Gover- nor.1	Appointment Appointment by Gover- nor, do	By executive	Government legal officers. Central government By executive	Appointement by de- partment head re- sponsible for adminis-	tering program. Appointment by executive. Appointment by department had be a ment head	Not specified	. Appointment by executive.	A	and consent. Ex officio or appointment by Governor. ¹	Appointment by Gov- ernor.1
Number of board Bespondent members	At least 3	Depends on workload.	3 to 5	Depends upon work-	9 load. 10 8 to 12 load.	0p	Depends on workload.	Depends on	workload.	3	89 6	3 01 3

TABLE 2.—ATTITUDE SURVEY—GENERAL PROCEDURES OF THE CRIME COMPENSATION BOARD

							Standar	Standard of proof			
pondent	W	Meetings	Bases for	Bases for decisions	Action deferred	Criminal	Beyond a		Rovipw	of decisions	
No.	Public	Private	Public record	Medical exam	if criminal case pending	sufficient proof of crime	reasonable doubt	Balance of probabilities	Internal	External	
		Vos	>								1
	Yes 3		Voc		1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	Yes	1	Yes	Yes	Yes	
		Yes	Vac		1 1 1 1 1 1 1 1	r es	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	Yes 4	Yes	, c3.	
1	Yes		Yes	Yac	No.	No		(3)	Yes	Yes,5	
	Yes		Yes			Tes-	Yes		Yas	. Yes.	
1 1 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2	Yes 3	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	Yes		1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	/ac	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	Yes	Yes	. Yes.	
1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	Yes	1	Yes		7 1 1 1 1 1 1 1 1 1	(es.	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	Voe	Yes	No.	
1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	Yes	Yes			res	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	Yes	Vos	. Y8S.	
	γος	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	Yes	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	1	res	Yes		No	. res.	
3 6 6 6 6 6 6 6 6 6 6 6 6 6 6 6 6 6 6 6		1	Vae		1 1 1 1 1 1 1 1	res		Yes	Yes	, res.	
		Yes	Yes		1 1 1 1 1 1 1	/es	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	Yes	Yes	No.	
1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	Yas		Yes			do.		1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1		- Yes.8	
1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	V	Yes	Yas			768			Yes	°CN	
1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	Yes	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	Yes			(es	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	Yes	Yes.	
	V	, Yes	Yes	5 5 1 1 4 1		(es			res	Yes,6	
1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	Voc	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	Y68.	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1		(es	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1		res	No.	
1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	Vec		Yes		1	'es		1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	Vac	res.	
	Yes		Tes.	Yes	1	'es-		1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	1	- 140.	
1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1		1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	res	Yes	Yes	es	Yes		Voc		

1 Not specified.
2 If district attorney requests it.
3 Except in rape cases.

Favors preponderance of evidence.
 Favors review at least on questions of law if restricted to claims involving a great deal of money.
 But only on points of law.

TABLE 3,-ATTITUDE SURVEY: THE APPLICANT AND THE CRIME COMPENSATION BOARD

Accictance	of friend	Yes.	Yes.	No.	Yes,	No.	Yes.	Yes.	Yes.	Yes.	Yes.	Yes.	Yes.	Yes.	Yes.	Yes.	Yes.	Yes.	Yes.	Yes	Yes.
Legal aid	Paid by board	No,2 yes 3	No 2	. Yes	No 3	. Yes	No 2	No 2	No	No	. Yes	. Yes 7	Yes	. Yes	. Yes	€		Yes	No 2		Yes
reg	Permitted	Yes	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes		Yes
400000000000000000000000000000000000000	punishable	Yes	Yes	Not specified	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes.	Yes	Yes	Yes	Yes	Yes	Yes	S		Yes
Applicant given	board's proceedings	PS	Yes	Not specified	Yes	Yes	40 5	Yes	res	Yes	Yes	Yes	Yes	Yes	Ves	Ves.	Yes	Yes	Vac	1	Yes
	Deadline on filing application					1 to 2 years															100 days.
Must submit to	a medical examination	Voc 1	Vac 1	Not specified	Vas 1	Yes	Yes 1	CN CN	Vpc 1	Yes 1	Yes 1	Yest	You	Yes	Vac 1	You	Vac 1	Voci	, co	165	Yes1
	Respondent Must report to police	0	40 IIIUUI S	Within reasonable time	Immediately	48 to 72 hours		Within reasonable time	Within teasonable times.	Ac soon as possible	At once	Immediately	With no unroaconable delay	As soon as practicable	As soon as practicable	Within a reasonable time	Without dolay	40 hours 4	40 Hours *	Z4 nours	Yes
	Respondent											10				1	7	10		0	19

Including a psychiatric examination, if necessary.
 The compensation program should prescribe maximum fees lawyers may receive from claimant.
 Only where claimant is indigent.
 Body where claimant is indigent.
 Body where claimant is indigent.
 Body and should have discretionary power to extend the deadline for cause.

If requested, yes.
By refusal of compensation.
Paid by the claimant if the claim is denied.
Should be on the same basis as in the courts.

TABLE 4,—ATTITUDE SURVEY: THE DEFINITION OF "CRIMINAL OFFENSE" IN A CRIME COMPENSATION PROGRAM

	20	
		Yes
	19	
	18	8
	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Yes. Yes. Yes. Yes. Yes. Yes. Yes. Yes.
	91	. Yes Yes 3 Yes 3
		Yes
	15	Yes
	14	8 8 8 8 8 8 8 8 8 8 8 8 8 8 8 8 8 8 8
	13	, , ,
	21	Yes
	17	Yes
	=	68.2
	10	, A
Respondents	6	, Ke
Respo		Yes
	ω	Yes
	7	es 1
	9	Yes ! Yes Yes Yes ! Yes ! Yes ! Yes !
	5	Yes
		Yes 1.
	4	SS
	က	Ye
		Yes
	2	Yes 1
	1	
		Yes_
		Generic definition of Crime. List of crimes put in compensation plan. Use of existing list of crimes in penal code
		lefinitii imes p nsation isting in pen
		crime. Ist of crimes put in compensation plan. Sompensation plan. Ise of existing list of crimes in penal cod
		Lis

1 Either of these choices is suitable.
2 With a list of crimes excluded from the compensation plan.
3 Limited to "crimes of violence."

TABLE 5.—ATTITUDE SURVEY: PAYMENTS TO VICTIMS OF CRIME

	20			
į		×	×	Yes
	19			1
	13		××	0
	17	×	XX	N SB
	16	×	XX	SS 3
	10 11 12 13 14 15 16 17 18		xxxxxxxxxxxxxxxxxxx	Yes Yes Yes Yes Yes Yes No No No No Yes 2 No Yes 3 Yes Yes No.
	4	×	×	,
	1	×	××	Yes 3
	13	×	×	No
	12	×	××	Yes 2
lents	11	×	××	No
Respondents	10	×	××	No
	6			
		×	××	No.
	∞		××	02
	7 8 9			es
	9			>
		×	××	Yes
	5		××	Yes
	4	×	××	Yes
	2 3 4 5 6	×	××	Yes
	2	×	××	Yes
	-	×	- ××	Yes
		Type of payment	m.	partial payments made before the case is decided. Provisions for re- opening a case if any party to case deems it desirable?

Minimum loss required. Yes 4 Yes 4 Yes 5 Yes 6 Yes 8 Yes 9	Yes. 11 Yes 12 Yes 12 Yes 13 Yes 14 Yes 15 Yes 15 Yes 15 Yes 16 Yes 17 Yes 16 Yes 17 Yes 17 Yes 18 Y
No No No No.	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1
No No	
es 6.	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1
Sall Yes I Te	Yes 13
No No.	Cel
Yes Yes	Yes 12. Yes 2
Yes Yes	Yes 11 Yes 17
Yes 4 Yes	Yes
Maximum limit on in- Yes Ye dividual awards?	Tigure? Yes 10. Yes 10. Yes 50. Yes one other maximus?

a A case should be reopened only in exceptional circumstances. 4 \$100 medical and/or 2 weeks lost wages. 550. 550. 8 \$50. 8 \$100. 8 \$100. 8 \$100. 8 \$100. 8 \$100.

12 \$20,000.
13 \$20,000.
14 \$20,000.
15 \$10,000.
15 \$10,000.
16 \$1,000.
17 A maximum periodic payment and a maximum number of payments.
18 Board should have power to require applicant to bring a civil action.

TABLE 6.—ATTITUDE SURVEY: EXCLUSIONS

	20	,	Yes.	Yes.	:	Yes.	Yes.	No.	
	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20		Yes Ye	Yes Yes Yes Yes.	Yes 2	1	Yes Yes Yes.	No Yes Yes No Yes No Yes Yes Yes Yes Yes Yes Yes Yes No No No.	
	18		Yes.	Yes		. Yes	Yes	No	
	17		Yes	Yes	Yes 2	Yes	Yes	No	
	16		Yes	1	1	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1		Yes	No-
	15		. Yes	Yes	1	Yes	Yes	Yes	No
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	13			Yes		Yes	No 8	Yes	No
	12	Yes	Yes	Yes	1	. Yes	Yes	Yes	No
ENTS	11		Yes	Yes	1	. Yes	Yes	Yes	No.
RESPONDENTS	10		. Yes	Yes	1	Yes 3_	Yes	Yes	No
22	6		. Yes	Yes	1	Yes	Yes	Yes	No
	∞		. Yes	Yes	Yesı	Yes 1	No 7	Yes	No
	7		- Yes	. Yes Yes Yes Yes No Yes Yes Yes Yes Yes Yes Yes Yes Yes.	Yes. Yes.	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	Yes Yes Yes No 4 No 5 No 5 No 5 Yes Yes Yes Yes Yes	No	Yes 9 Yes 10 No
	9		. Yes	No	1	. Yes	No 6-	Yes	No
	5		Yes	Yes		. Yes	No 4	No	
	4		Yes	Yes	Yes	1	Yes	Yes	Yes 10
	က		. Yes	Yes	Yes	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	Yes	Yes	Yes 9.
	2	Yes		Yes		. Yes	Yes	No	
	-		Yes	Yes		. Yes	Yes	No	
		Property loss or damage: Included?	Should compensation scheme prevent	"double re- covery"?	family or "household":	Should all other money	received reduce the amount of the award?	Should compensation scheme make awards for pain and suffering?	If yes, should there be a maxi.num award allowed?

1 Wife excluded; children included. 2 But the board should have a discretion to withhold compensation or make special provision for 1s administration if it considers that the money will otherwise find its way to the wrongdoer, directly or indirectly.

3 Except in fatal cases.

4 Coverage provided by private insurance paid for by the injured person and social security benefits uld not reduce the amount of the award.

lansurance benefits and workmen's compensation benefits should not reduce the award.

• Life insurance premiums should not reduce the award.

• Earlist of more payments should not reduce the amount of the award.

• Sifits of money should not reduce the amount of the award.

• \$1,000.

• \$1,000.

U.S. SENATE, COMMITTEE ON FINANCE. Washington, D.C., March 13, 1972.

Hon. John L. McClellan,

Chairman, Subcommittee on Criminal Laws and Procedures, Senate Judiciary Committee, Washington, D.C.

Dear Mr. Chairman: Because of my concern about the oft-forgotten victims of crime, I introduced legislation on November 12, 1971, to provide compensation for

persons injured by criminal acts.

My Criminal Loss Recovery Act of 1972 was in response to the rise of crime in the streets which has undermined the quality of life. Legislation has been passed, and additional legislation has been proposed, to combat both the causes and effects of crime. To ease tensions in our crime-ridden environments we must

continue to deal with this cause-effect relationship.

Undoubtedly the most serious effect of crime is the loss of life and personal injury incurred by the victim of criminal attacks. Most victims have limited means to compensate for economic losses due to criminal attack and this economic penalty contributes to the already dangerous and widespread belief that crime pays for the criminal while government remains insensitive to the needs of the victim. This feeling undermines the trust citizens place in our democratic form of government: The main objective of which is to respond to the just needs.

and desires of its people.

Under my bill, any person injured or killed by anyone in violation of any penal law of the United States or any State shall be covered. Most existing and proposed compensation boards have limited the recovery of compensation to violations of certain particularized acts. This broadening of coverage is imperative because criminal injury is no respecter of legislative designation and the purpose of compensation programs should be to award those injured rather than to attempt to differentiate between types of crime. Most importantly, since criminal injury is one of the hazards of life in our contemporary society, the Government must recognize its obligation to protect its citizens. And if it fails to protect, to compensate.

A shortcoming of many compensation programs has been that the number of injured who are allowed to recover is extremely limited. A proposal to allow those who are dependent on the victim to recover loss is a step forward. You might also consider broadening that coverage to include innocent third parties

who are injured as a result of a criminal act.

One shortcoming of most legislation dealing with crime compensation has been to exclude victims that are related to perpetrators from receiving compensation because of the possibility of collusive action and unjust enrichment. Victims that are family members of the perpetrator should not be outrightly excluded as a class simply because it might require close scrutiny to ascertain improper action in attempts to receive compensation. I feel close examination of such claims could overcome the possibility of collusive suits and unjust enrichment. It is too severe a remedy to provide that a child cannot receive compensation because one parent has seriously injured another and the child then finds himself without any means of support.

At this point, I would like to refer to an issue that is conspicuous by its absence in the legislation I introduced. That is the right of the Federal Government to sue to recoup funds that it pays to the victims of crime. Although such is indeed desirable, I feel such provision is superfluous in that it is commonly acknowledged that the criminal element of our society is largely indigent. Assuming the criminal does have funds, then the victim can resort to suit in the civil courts for damages for personal injury and loss of income. Therefore, I feel that it is unnecessary to include provisions in this legislation to allow the recoupment of

funds paid to the victims of criminal injury.

In conclusion, I would like to express my support of Title I of S. 2994 because it takes a very necessary step to ease the economic effects of crime on those who are its innocent victims. It is my hope that this legislation will receive prompt consideration.

Sincerely,

VANCE HARTKE. U.S. Scnator. AMERICAN FOREIGN SERVICE ASSOCIATION, Washington, D.C., January 10, 1972.

Hon, JOHN L. McCLELLAN, Chairman, Subcommittee on Criminal Laws, U.S. Senate, Washington, D.C.

Dear Senator McClellan: I refer to S-2994, "The Victims of Crime Act of 1972." I understand that you have packaged into this bill proposals to pay a \$50,000 federal death benefit to the families of policemen, firemen, prison guards and federal marshals slain in the line of duty. The Association, which represents U.S. Government employees serving abroad for the Department of State, the United States Agency for International Development, and the United States Information Agency, would like to call your attention to another risk for civilian employees of the U.S. Government which, we feel, deserves to be included in the federal death benefit legislation. This is the risk of death through hostile action during service abroad. By hostile action, we mean political assassination, kidnapping, insurgency, rioting, and other types of politically motivated violence. As examples of Foreign Service losses under this type of risk, you will recall the murder of Mr. Dan A. Mitrione, AID Public Safety adviser serving in Uruguay who was kidnapped in July 1970, and the death by assassination of Ambassador John Gordon Mein in Guatemala in 1968.

Fortunately, the number of deaths of civilian employees in the Foreign Service through hostile action has not been very high, thanks to the friendly protection afforded by most governments with whom we maintain diplomatic relations. Nevertheless, the kidnapping of diplomats for political ransom has become a recognized weapon of insurgent warfare in recent years, and in many areas of the world, diplomats are in constant danger at all hours of the day and night.

Unlike employees in other areas of government who are vulnerable to work accidents, the Foreign Service employee assigned to a hazardous area is unable to be assured that the utmost in safety precautions are being taken since the political terrorist can strike at any time and under any disguise. The Association respectfully recommends, therefore, that the proposed \$50,000 death benefit include civilian employees of the Foreign Service killed by hostile action while serving abroad. We are certain that the definition of hostile action can be made sufficiently narrow so as to include only those employees killed in the line of duty as the result of politically inspired terrorism and violence, and to exclude death by nonpolitical accident or disease.

AFSA would be pleased to work with members of your staff in furtherance of

this legislation.

Sincerely yours.

F. ALLEN HARRIS, Vice Chairman, Board of Directors.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, FEDERAL INSURANCE ADMINISTRATION. Washington, D.C., January 24, 1972.

Hon, JOHN L. McCLELLAN.

Chairman, Subcommittee on Criminal Laws and Procedures, Committee on the Judiciary, U.S. Senate, Washington, D.C.

(Attention Mr. G. Robert Blakey, Chief Counsel).

DEAR SENATOR McCLELLAN: This is in reply to your December 6 letter and subsequent note enclosing copies of S. 33, S. 1946, S. 2087, S. 2748, and S. 2994 and requesting in that context both a report on the Federal crime insurance program and any recommendations or advice I might have on the efficacy and wisdom of the programs proposed by these bills.

A report on the legislative history and development of the crime insurance program is enclosed to brief you on the origin and status of the crime insurance

program.

One point made in the enclosed report deserves special emphasis. That is the relatively unsatisfactory nature of any study or survey that attempts to establish empirically an essentially negative economic proposition, such as the fact (if it is a fact) that crime insurance or life insurance is not available to a given segment of our society at reasonable or affordable rates and that if made available, it would be purchased by those who testify to its unavailability. If the life insurance situation for law enforcement officers is similar to the crime insurance situation for central city residents, then such a survey would find scores of persons who accept on hearsay evidence the "fact" that they can't afford such insurance but who have not actually sought it, as well as scores of other persons on the one hand who already have the insurance or on the other hand who wouldn't buy it even if it were offered at lower rates.

In the final analysis, we believe the Committee may find that it will have to make a subjective judgment on the basis of the best available opinion evidence as to the availability of life insurance protection for law enforcement officers, and on related questions, without the benefit of evidence conclusively establishing either

side of the question.

If an affirmative judgment as to availability and need is made, then the question of a program conferring special insurance benefits on State and local public safety officers and a program to compensate crime victims becomes essentially one of relative costs and priorities. We have no basis for commenting on this question, except to note that the Administration already supports S. 2087, which would provide a \$50,000 minimum line of duty death benefit to law enforcement officers. Adoption of this bill by the Congress would certainly be a major step toward the alleviation of whatever life insurance inequities may now exist with respect to these officers.

We are also unable at present to comment adequately on the technical insurance aspects of S. 2994 and related bills. Their feasibility depends upon a great deal of factual and statistical information not readily available to us. We do not know, for example, whether the proposed 25 percent subsidy with respect to the State or Federal group insurance program would be adequate to assure "affordablity," nor do we have sufficient information to judge the probable costs

or relative benefits of the various other programs being proposed.

On the other hand, the death benefit proposed by S. 2087 certainly might provide a new and substantial incentive to the recruitment and retention of law enforcement officers within jurisdictions where no such benefits presently exist. The immediate adoption of the \$50,000 death benefit would also permit additional time and opportunity for the Committee's technical evaluation of other proposals. We therefore recommend the enactment of this proposal while all of the ramifications of the other proposals are undergoing further study.

If we can be of additional assistance in this matter, please let us know.

Sincerely,

GEORGE K. BERNSTEIN, Federal Insurance Administrator.

Report on the Federal Crime Insurance Program, Prepared by the Federal Insurance Administrator, Department of Housing and Urban Development, January 21, 1972

The following report on the Federal crime insurance program has been prepared at the request of the Honorable John L. McClellan, Chairman of the Subcommittee on Criminal Laws and Procedures of the Committee on the Judiciary, U.S. Senate, by George K. Bernstein, Federal Insurance Administrator, Department of Housing and Urban Development.

AUTHORIZATION OF PROGRAM

The Federal crime insurance program was authorized by title VI of the Housing and Urban Development Act of 1970 (P.L. 91–609, December 31, 1970, 84 Stat. 1770) as part of title XII of the National Housing Act (12 U.S.C. 1749bbb–10a). Title XII contains the Urban Property Protection and Reinsurance Act of 1968, authorized by title XI of the Housing and Urban Development Act of 1968 (P.L. 90–448, August 1, 1968, 82 Stat. 556).

The 1970 Act authorizes the Secretary of Housing and Urban Development to make direct policies of crime insurance available at affordable rates in any State in which after August 1, 1971, there is a critical shortage of crime insurance in the private market that has not been met through appropriate State action. The Secretary is authorized and directed to conduct a continuing review to determine whether crime insurance is available at affordable rates throughout the United States either through the normal insurance market or through suitable State programs.

The Secretary is authorized to provide crime insurance upon such terms and conditions, and subject to such deductibles and other restrictions, as he deems appropriate. However, crime insurance is not available to a property which is determined to be uninsurable or to a property with respect to which reasonable protective measures to prevent loss have not been adopted as required by the Federal regulations. In carrying out the program, the Secretary is authorized to use insurance companies, agents, and brokers, and adjustment organizations as fiscal agents, or he may use Federal government officers or

employees, or any combination of these. The Secretary is further directed by the Act to establish affordable premium rates for crime insurance, taking into consideration the nature and degree of the risks involved, the protective devices employed, the extent of anticipated losses, the prevailing rates for similar coverages in adjacent or comparable areas and territories, the economic importance of the various individual coverages and type of property involved, and the relative abilities of the particular classes and types of insureds to pay the full estimated costs of such coverage. By definition, "affordable rate" means such premium rate as the Secretary determines would permit the purchase of a specific type of insurance coverage by a reasonably prudent person in similar circumstances with due regard to the costs and benefits involved.

The Secretary's authority to carry out the Federal crime insurance program has been delegated to the Federal Insurance Administrator in the Department of Housing and Urban Development.

BACKGROUND OF THE PROGRAM

The authorization of the Federal crime insurance program followed the Report on Availability of Crime Insurance and Surety Bonds in Urban Areas, prepared by the Federal Insurance Administration and submitted to the President and Congress in July 1970.

Previously, in August 1967, the President had appointed the National Advisory Panel on Insurance in Riot-Affected Areas as part of the National Advisory Commission on Civil Disorders, After an extensive study, the Panel submitted a report entitled Meeting the Insurance Crisis of Our Cities (January 1968). Among its findings and recommendations, the Panel identified the lack of general availability of crime insurance—insurance against losses from burglary, theft, and related perils—as one significant factor in the insurance problems of urban areas and thus a contributor to widespread urban decay.

In August 1968, in response to the Panel's report, Congress enacted the Urban Property Protection and Reinsurance Act of 1968 which, among other provisions, directed the Secretary of Housing and Urban Development to undertake the study of the availability of crime insurance in urban areas referred to above.

The principal recommendations accompanying the 1970 FIA Report, which differ in several respects from the legislation subsequently enacted by Congress, were as follows:

"The unavailability of burglary and theft insurance appears to be critical and requires prompt remedial action in only fifteen or twenty States, Almost all of these States have already demonstrated their concern and willingness to take action to remedy the unavailability problems in the fire and extended coverage insurance lines through the establishment of FAIR Plans. It is therefore

"1. That each State which suffers from a critical unavailability of burglary and theft insurance take action to adopt a suitable program, as contemplated by Section 1223(a)(2) of the Act to make burglary and theft insurance available at reasonable rates.

"a. That such action specifically include the establishment of a program whereby property insurers doing business in the State are required to participate in a pool or plan through which all insurable risks are able to obtain adequate amounts of burglary and theft insurance.

"b. That the premiums charged to insureds through the program be maintained at a rate which policyholders can afford through a method of inter-subsidization which involves the levying of a small loading or premium tax on all other property insurance policies in the State.

"c. That in view of differing local circumstances, a particular State should have the opportunity to adopt alternatives to the foregoing recommendations in meeting its own availability problem, provided that the need is effectively met.

"2. That at the close of the next full legislative session in each State in which a FAIR Plan exists and where Federal riot reinsurance is provided, the Federal Insurance Administrator review the burglary and theft market availability situation in that State. If he finds that a critical problem exists and has not been met through appropriate State action as outlined above, he will then terminate the availability of Federal riot reinsurance in that State, unless within sixty days after such finding the State makes burglary and theft insurance available by adding it to the lines of coverage written by its FAIR Plan,

"3. That in asmuch as the Federal riot reinsurance program terminates under the Act on April 30, 1973, the Secretary of HUD report to the President and the Congress no later than August 1, 1972, on the current status of burglary and theft, and fire and extended coverage insurance availability, as well as availability of the other lines of insurance covered by the Act, and make recommendations as to the need for extension or revision of the existing Federal law and the establishment of additional Federal programs of insurance or reinsurance.

ance."

The basis for the above recommendations was our belief that "efforts to reduce the incidence of crime must, of course, continue and intensify. But, until these efforts are successful, measures must also be taken to assist the victims of crime. Otherwise, as the National Advisory Panel concluded, the loss of jobs and economic opportunity caused by the closing of businesses unable to recover their crime losses will increase, resulting in an accelerating rate of urban decay."

We pointed out that the "choice we have as a society are not easy. We must decide not only whether we want to save our urban areas, but also whether we are willing to pay the price. This report demonstrates that traditional insurance approaches are inappropriate to the problem of crime losses in the areas most seriously affected. It is impossible for the residents of these areas to bear the full financial burden of either their uninsured losses or their own insurance costs as traditionally determined under the rating laws of the several States. If we are to compensate these residents for crime losses, the cost of this compensation must in part be borne by others . . . While there are a number of methods of diluting and absorbing these costs, they cannot be eliminated. Nor will disguising them or refusing to recognize that they exist serve any valid purpose."

Our specific recommendations represented our belief that the benefits urged would justify their cost and that the program should be structured to minimize those costs as much as possible and to utilize to the maximum extent the exist-

ing system of State regulation of insurance.

During the second session of the 91st Congress, several bills were introduced

dealing with the problems of crime insurance availability.

The legislation enacted by the Congress essentially represents a compromise with respect to the various proposals. It departs from the recommendations of the Federal Insurance Administration in providing for direct writing of crime insurance by the Federal government, but addresses a principal concern concern underlying the recommendations by providing that Federal direct crime insurance was not to be available until August 1, 1971 (thus providing a period of seven months for individual States to take action and avoid the necessity of a Federal program), and providing that such Federal insurance was to be made available only where appropriate State action was not taken.

EARLY IMPLEMENTATION OF THE PROGRAM

During the seven-month period before Federal crime insurance was to be made available, the Federal Insurance Administration took steps to determine the availability of privately written crime insurance in major States and to encourage State governments and private insurance organizations to meet crime insurance problems so that recourse to the Federal program would not be necessary.

In January, letters were sent to each State Governor and to each State insurance authority informing them of the provisions of the new Act authorizing Federal crime insurance and urging appropriate action at the State level if it was warranted, in order to meet the August 1 deadline established by law. In March, the Federal Insurance Administration provided each Governor and each State insurance authority a copy of the FIA crime insurance guidelines, a copy of the FIA report on crime insurance availability, and a model State crime in-

surance bill prepared by the National Association of Insurance Commissioners. In May, letters were sent to the Governors and State insurance authorities of all States and to the Mayors of all cities with a population of over 30,000, calling attention to the Federal legislation and requesting specific information on the

availability of crime insurance.

Surveys of their membership in each State were conducted by the National Association of Insurance Agents and the National Association of Mutual Insurance Agents. The results were made available for the Federal Insurance Administration's use in determining the extent of private insurance market deficiency. An extensive series of meetings and discussions was undertaken with representatives of business and retail associations. Several associations also conducted polls of their members and made the results available to FIA.

Statistics on the incidence of crime of various types prepared and published

by the Federal Bureau of Investigation were carefully reviewed.

Considerable weight was given to the number of jurisdictions in which FAIR Plans (Fair Access to Insurance Requirements) had been established to increase the availability of basic property insurance—fire, extended coverage, and vandalism and malicious mischief-inasmuch as a relative deficiency in the private market for the basic lines of property insurance coverage is likely to be associated with a deficiency in a line of insurance such as burglary and theft, and the very existence of these Plans gives evidence of community problems which are apt to increase crime.

Although the Federal Insurance Administration was not bound by the recommendations of State authorities, the opinions and recommendations of Governors and State insurance departments were given great weight. While the Insurance Commissioners of eight of the jurisdictions found eligible for Federal crime insurance acknowledged the need for the Federal program, two States were also designated whose Commissioners neither confirmed nor denied the existence of a critical availability situation. On the other hand, every State whose Governor or Insurance Commissioner requested that the State be included was designated

as eligible.

one of the principal reasons for this approach was the fact that all of the studies and surveys undertaken by the Federal Insurance Administration, both in its previous crime insurance and surety bond studies and in its market availability review prior to implementing the actual crime insurance program, had made clear the virtual impossibility of conclusively establishing a negative proposition in the insurance market: in this case, that crime insurance was not reasonably available to the general public at affordable rates. Many persons who said they wanted crime insurance had never tried to buy it, and many persons who felt the price was too high nevertheless continued to carry the insurance. In the end, FIA decisions concerning insurance availability at affordable rates of necessity involved largely subjective judgments, and no clear line of demarcation concerning availability or affordability could be drawn as to every State. Consequently, some of the States now in the program represent our subjective conclusions, based upon crime rates, density of population, availability problems in other insurance areas, and knowledgeable judgments and opinions; and the situation remains subject to change.

PROPOSED RULEMAKING

Proposed rules for operation of the Federal crime insurance program were published in the Federal Register of May 22, 1971, pp. 9314-1328, pursuant to the

provisions of the Administrative Procedures Act.

These proposed rules were continued available for public comment and recommendation until June 21, 1971. During this period, a public hearing was held in Washington, D.C. (June 11, 1971) at which members of the public, State and local authorities, the insurance industry, and business organizations appeared and provided valuable advice, comment, and recommendation on the nature and

specific content of the proposed Federal program.

Basically, the proposed rule-making set forth the principal features of the program in the form in which they were finally adopted. For purposes of continued analysis of the problems of each individual State, the 52 jurisdictions (50 States. Puerto Rico, and the District of Columbia) were divided into three tentative classifications: (1) those most likely to require the Federal program (2) those likely to require the Federal program, and (3) those least likely to require the Federal program.

PROGRAM INITIATION (AUGUST 1, 1971)

Following the public hearing and the receipt of comments on the proposed rule-making, definitive regulations for conduct of the Federal program were published in the Federal Register of July 1, 1971, pp. 12517–12532. At the same time, supplies of application forms and policies and copies of the manual for insurance agents and brokers were widely distributed in States in which the program was to become effective, so that the necessary materials would be available on the date specified in the legislation. (Additional information on administrative arrangements will be found below.)

Policy Coverages. Crime insurance as defined in the Act means "insurance against losses resulting from robbery, burglary, larcency, and similar crimes, and may include broad from personal theft insurance, mercantile open stock insurance, mercantile robbery and mercantile safe burglary insurance, storekeepers burglary and robbery insurance, office burglary and robbery insurance, and may include business interruption insurance as the Secretary may designate; the term does not include automobile insurance or losses resulting from em-

bezzlement."

Surveys and recommendations of knowledgeable parties indicated that the need was most critical for insurance against burglary (the breaking and entering of a premises with visible signs of forcible entry) and robbery inside or outside the premises, including theft observed by the insured. The coverages made available by the Federal program thus insure against these hazards and encompass the loss of property such as merchandise, furniture, equipment, and money.

Rather than attempt to offer the detailed and often confusing array of individual types of policies available in the private crime insurance market (those permitted for inclusion by the enumeration in the definition of crime insurance in the Act), it was determined to offer only two broad types of policies at the outset of the program: a residential burglary and robbery policy for owners and tenants of homes and apartments, and a commercial burglary, robbery, and observed theft policy for owners or operators of commercial establishments. Initially, a single "package" policy was available which included both the burglary and robbery coverages in equal amounts. Subsequently, effective January 1, 1972, by amendment of the regulations, manual, and policy forms, commercial insurance applicants were permitted to purchase either a burglary or a robbery policy, or a combination of the two in varying amounts. Under this revised option the cost of protection can be cut in half.

Policy Coverage Amounts. In order to limit the exposure of the program to excessive losses and to avoid unnecessary competition with or incursion on the field of private property insurance, it was determined to limit the dollar amount of coverage available through the Federal crime insurance program to \$5,000 for the residential coverage and \$15,000 for the commercial coverage. These limits, as in common insurance practice, apply on a per-occurrence basis and are

not cumulative.

Protective Devies. The statutory prohibition against insuring properties which are found to be uninsurable and against insuring properties which do not meet the Secretary's requirements for appropriate protective and loss-preventive

devices is an integral and most important aspect of the program.

Consultation with recognized private protective organizations such as Underwriters Laboratories, and with the Federal Bureau of Investigation, the Law Enforcement Assistance Administration, and local police and law enforcement bodies resulted in our establishing standards for protective and preventive measures reasonably related to the varying risks of different types of business conducted in commercial premises and for residences. The protective device standards are set forth in detail in the public regulation, the agents' manual, and the application form, which provides the specific information for the different applicant classifications.

A time-consuming and expensive inspection of the property to be insured prior to policy issuance is not required. Rather, reliance is placed upon certification by the applicant that the protective devices required by the Federal regulations are actually present and operative. The insurance agent is also required to certify that he has explained the need for relevant protective devices to the applicant, which should lessen the possibility of pro forma certification by an applicant who

might not read the application form with sufficient care and attention.

Experience with the Federal program over its first three months indicated the necessity of revision of some of the standards for protective measures and devices. Accordingly, the regulations were amended effective January 1, 1972, to include a greater variety of permitted protective equipment currently in use in

areas of high crime exposure for which reasonable evidence of effectiveness exists.

It also became apparent that the certifications required of insurance agents and brokers needed clarification to reassure agents that the legal sanctions incorporated in the application were applicable only to fraudulent and intentionally misleading statements and not to inadvertent mistakes. The certification provisions were revised, effective January 1.

Premium Rates. In the establishment of crime insurance premium rates, it was necessary to take into account the standards enunciated in the Act—primarily, the requirement that rates be "affordable," but also the nature of the Federal coverage and the aspects in which it differed from the coverages available in the private voluntary market and the implications of available statistics on the incidence of crime.

Premium rates thus formulated reflect the statistics on incidence of crime reported by the Federal Bureau of Investigation. To provide coverage in all areas at rates which are both affordable and yet give credence to the actual risk of loss within a socio-economic unit, crime insurance premium rates per \$100 of insurance coverage are related to (1) the rate of crime with respect to the standard metropolitan statistical area in which the insured property is located, (2) the types of risk (residential, or one of three specified classes of commercial enterprise), and (3) the annual gross receipts (or the equivalent) of a commercial enterprise.

At an early stage in the process of formulating a premium rate schedule to give appropriate weight to the Congressional mandate that rates be "affordable," a concept that does not exist in private property insurance transactions, it was recognized that some measure of relative affordability could be introduced through reference to the annual income attributable to each risk. At the same time, to obtain some measure of the loss exposure required consideration of the probable amount of cash or equivalent on the premises at any one time. The premium rating schedule based upon gross receipts takes cognizance of both these concepts and significantly simplifies rating and its application. This approach has been retained and the principle remains unaffected by the January 1 revisions allowing the purchase of less coverage at lower rates.

States in Which Insurance is Available. As a result of the studies, surveys, and recommendations available to the Federal Insurance Administration as described in detail above, the Federal direct crime insurance program was implemented on August 1 in nine States (Connecticut, Illinois, Maryland, Massachusetts, Missouri, New York, Ohio, Pennsylvania, Rhode Island) and the District of Columbia. The States of Michigan and California, in which the Federal program was expected to become operative, enacted State legislation late in July intended to solve the identified problem of crime insurance unavailability. The State of New Jersey, which otherwise would have been considered for application of the Federal program, took early action to provide crime insurance through its FAIR Plan mechanism. Subsequent to the August 1, 1971, effective date of the Federal program, the States of Indiana, Kansas, Kentucky, and Wisconsin began to develop their own crime insurance programs on the basis of their own assessment of the market mavailability situation. No Federal action will be taken in these States until it is determined whether the State programs have worked satisfactorily.

Administrative Arrangements. As mentioned above, the Act permits the use of private insurance company resources, Federal employees, or a combination of the two. To assure the presence of a marketing force at the most convenient level, eliminate the need for an unnecessary new Federal bureaucracy, and in order to cause the least disruption of the private insurance marketing system, it was determined that Federal crime insurance policies should be marketed through State licensed property insurance agents and brokers throughout the States in which insurance was to be made available. The program regulations provide the basic offer of compensation to agents and brokers for their services in marketing and servicing policies of crime insurance, at rates of commission which vary slightly, according to the rating territory in which the property is located; these average 15% for new policies and 12% for renewals. The commission rates are believed to be adequate to compensate agents and brokers for their expenses. They may be somewhat lower than those ordinarily available to producers in the normal private insurance market but are about 5% higher than the rates paid by almost all State FAIR Plans.

To avoid the necessity of adding a substantial body of Federal employees, the Federal crime insurance program is administered for the Federal government, insofar as insurance policy issuance and claim settlement are concerned, through the facilities of private insurance companies acting in the capacity of fiscal

agents. We would have preferred a situation similar to that in the Federal flood insurance program where private insurers bear a share in the losses sustained, but the insurance industry would not participate in such an arrangement. At the same time we refused to authorize a cost-plus arrangement. Therefore, in order to assure that the program was administered at the lowest feasible cost to the Federal taxpayer, the fiscal agents were selected through a process of competitive procurement authorized by Federal law. Fiscal agent contracts with three property insurance companies were thus negotiated through competitive procedures, providing service in all ten jurisdictions at minimum Federal cost.

The statistical and actuarial data required in the Federal crime insurance program differ significantly from those employed by any other program of the Federal government. Accordingly, these services are being provided—at least during the initial phases of the program—by experienced specialized organizations associated with the private property insurance industry. The statistical agent contracts were also let on a fully competitive basis and are believed to have been secured at extremely favorable rates.

PROGRAM ACTIVITY

The following table shows the information available from the three servicing carriers on the number of Federal crime insurance policies sold:

		Commercial	Total
Cumulative, week ended—			
Aug. 7, 1971			
Aug. 14, 1971			
Aug. 21, 1971	210	84	294
Aug. 28, 1971	274	106	. 380
Sept. 3, 1971	(1) 511	(1) 156	524
Sept. 10, 1971 Sept. 17, 1971	626	156 174	667 800
Sept. 24, 1971	782	209	991
0.1 1 1077	877	233	1, 110
Oct. 8, 1971	992	246	1, 110
Oct. 15, 1971	1, 125	273	1, 230
Oct. 22, 1971	1, 245	296	1, 541
Oct. 29, 1971	1, 344	327	1, 671
Nov. 5, 1971	1, 446	345	1, 791
Nov. 12, 1971	1, 535	362	1, 897
Nov. 19, 1971	1, 620	386	2, 006
Nov. 26, 1971	1. 717	423	2, 140
Dec. 3, 1971	1, 787	444	2, 231
Dec. 10, 1971	1, 900	461	2, 361
Dec 17 1971	2, 033	497	2, 530
Dec. 24, 1971	2, 101	505	2, 606
Dec. 31, 1971	2, 201	514	2, 715
Jan. 7, 1972	2, 300	532	2, 832
Jan. 14, 1972	2, 409	575	2, 984
Jan. 21, 1972	2, 517	605	3, 122
State distribution, cumulative through Jan. 14, 1972:			
Connecticut	8	12	20
District of Columbia	21	16	37
Illinois	22	25	47
Maryland	12	24	36
Massachusetts	889	81	970
Missouri	26	59	85
New York	1. 243	219	1, 462
Ohio	48	86	134
Pennsylvania	229	75	304
Rhode Island	19	8	27
Total	2, 517	605	3, 122

¹ No breakdown available.

The aggregate number of policies sold through the first three months of the program's existence was found to be inconsistent with expectations at the time the program was considered by Congress and under development in the Federal Insurance Administration. A number of reasons were inferred for this low level of aggregate activity, including confusion over the protective device requirements, reluctance of agents and brokers to sign a certification which they erroneously believed would expose them to legal action for all errors or omissions, and in the case of the commercial policy the single "package policy" offered by the Federal program which did not prove to be as attractive as we had expected. In addition, the predominance of residential policies in the total was unexpected, since it had been believed that the primary demand for coverage and the principal market deficiency was for commercial coverages.

Accordingly, several significant revisions in the program were made, effective January 1, 1972, to correct these deficiencies. These revisions were published as definitive regulations in the Federal Register of November 27, 1971. The effect of these changes has not yet become evident.

The following table summarizes claims for loss under the Federal crime

insurance program, as reported by the statistical agency:

CLAIMS PAID AUGUST 1971 THROUGH NOVEMBER 1971

	Number of claims	Amount paid
Commercial: Robbery inside the premises	7 5 7	\$13, 500 16, 500 6, 600
Total	19	36, 600

Underwriting results and financial statements will be prepared as of December 31, 1971, when actuarially credible figures are available from the fiscal and statistical agents.

PROBLEMS ENCOUNTERED

Other than the problems of determining the most appropriate form of coverage, the limits of insurance to be provided, the nature of the protective and preventive measures, procedures, and devices, the appropriate rating system to take into account the Congressional dictate of affordable rates, and other matters discussed previously in this report, the most difficult problem in administration of the Federal crime insurance program has been that of pubic information and education.

Potential applicants for Federal crime insurance have become inured, by and large, to their inability to obtain crime insurance. The marketing of policies under the Federal crime insurance program is currently conducted by private property insurance agents and brokers, who are expected—as in voluntarily written private insurance operations—to acquaint current and potential customers with available types of insurance. The national organizations of insurance agents and brokers have consistently maintained that the nationwide force of private property insurance producers constitutes the most effective, efficient, and economical method of marketing the insurance coverage, and has consistently sought to stimulate cooperation by the various State agents' associations and the agents directly. Nevertheless, the Federal crime insurance program is a new program and involves many concepts and methods which depart from traditional techniques and methods. Some of these new aspects are apparently not easily mastered by agents and brokers, and there appear to be some who have been unwilling to invest their time and effort.

The staff of the Federal Insurance Administration and representatives of the three insurance companies operating as fiscal agents have endeavored through a series of workshop meetings and public discussion in the various States where the program is operative to overcome the reluctance of agents and brokers to actively market crime insurance written directly by the Federal government.

Of particular concern in this aspect of administration of the program is the demonstrated lack of a sufficient agency force in precisely those areas in which crime insurance is most needed—namely, the inner-city and deteriorating areas of cities. It appears, unfortunately, that even agencies located in inner-city areas tend to concentrate their efforts on long-standing clients who require relatively large amounts of a wide variety of coverages, thus producing the largest dollar commissions for the agency. We hope that the American Agency System will prove adequate to the insurance needs of the public, but the possibility exists that alternate marketing means may have to be developed.

To acquaint the general public with the availability of Federal crime insurance, letters have been sent to the mayors of all cities in States in which Federal coverage is available urging them to publicize the program widely throughout their cities. Short television public-service announcements have recently been prepared for showing by television stations, especially those in cities where the availability of crime insurance is known to be an acute problem. Various public and private agencies as well as model city and urban renewal agencies having continuing connections with other programs of the Department of Housing and Urban Development have been contacted and urged to disseminate information

about the program to their clientele.

Finally, a continuing concern of the Federal Insurance Administration has been the possible need for expansion of the program to additional States in which there may actually be a critical problem of availability but no effective State program. Particular attention is also being given to the operation of State programs in those States where a need is known to exist, in order to determine whether the State program is providing an adequate response within the terms of the Federal legislation. If evidence from any State reaches a level indicating that a critical problem exists for which a timely and effective State solution cannot reasonably be anticipated, that State will be added to the Federal program.

STATEMENT OF JOHN F. SCHMUTZ, EXECUTIVE EDITOR, NOTRE DAME LAWYER, NOTRE DAME, IND.

As S. 2994 accurately indicates, there has been a great increase in crimes of violence throughout the United States in recent years. Between the years 1965 and 1968, for example, the vate of violent crimes against persons rose over 71 percent. The risk of becoming a victim of serious crime increased 16 percent in 1968 alone with over two victims per each 100 inhabitants. Since the advent of the Sixties, the percentage of violent crimes against persons has increased 106 percent! The National Commission On the Causes and Prevention of Violence, in their final report, declared the 1960s to be one of the most violent in our country's history, with a rate of violent crime 300 percent greater in 1968 than it was in 1933. Due to the additional fact that police solutions of serious crimes have declined 32 percent since 1960, and that the rate of conviction for serious crime is only six percent, strong incentive exists today for some program to assist those unfortunate enough to have become victims of violent crime. (Citations to the above can be found on page 92 of my article, Compensation for the Criminally Injured Revisited: An Emphasis on the Victim?, 47 Notre Dame Lawyer 88 (1971).)

Compensation to victims of crime is hardly a new concept, but dates back at least to the days of Hammurabi, circa 2380 B.C. Throughout history, societies have attempted to make whole the victims created by violations of their codes of behavior. Unfortunately for modern society, these attempts were not segregated from the criminal process, but were an integral part of it. As Western civilization advanced, the eighteenth century witnessed a dramatic separation of the criminal and civil law, wherein the victim was no longer allowed to be financially interested in the trial of his offender, and his recovery was relegated to the tort process. Due to the criminal process, which often left the offender impecunious or imprisoned, attempts at evasion, and the fact that so often the offender was financially unable to compensate his victim, this class of society so directly affected by the criminal act was left without a remedy. In terms attributed to Jeremy Bentham in the eighteenth century, and Senator Mike Mansfield in 1971, society has an obligation to compensate those who were not protected by its laws which prohibit such crimes against persons.

Since New Zealand passed its Criminal Injuries Compensation Act in 1963, many nations throughout the free world have passed similar protections adding the victims of crime. Since the advent of this serious consideration for compensation the victims of crime, seven states in this country have promulgated laws establishing such systems, and several other states have measures pending in their legislatures. (For a compilation of these measures, see 47 Notre Dame Lawyer 88, 103–113, and Appendix.). From 1965 until the present time, many attempts have been made to introduce such needed legislation into the federal structure. However, up until now, none have survived committee. S. 2994 is a bold attempt to place this needed legislation in our federal law and deserves immediate and full consideration. Through its system of federal grants to the states, there is the opportunity to invite all states to participate in this worthy effort to compensate the

victims of crime so often left without other remedy.

This new proposal draws heavily on the experience of other nations having such programs, as well as our own states. It has the advantage of almost ten years of observation of their successes and failures, and can thus adequately draw the best from each. S. 2994 provides for a controlling authority called the Violent Crimes Compensation Board, consisting of three appointed members serving eight-year terms. This Board would have the power to compel the attendance of witnesses and the production of documents from which decisions could be reached on the merits of compensation. Proof of final criminal conviction would constitute conclusive evidence that the offense had been committed,

thus preventing collateral attack on the finality of the criminal conviction. Anyone with a substantial interest would have the right to be heard. The order of the Board would be subject to judicial review. The victim under this type of program would be limited to compensation for personal injuries caused by the commission of a violent crime. In awarding compensation, the Board would become subrogated to the rights of action the victim might have had against the offender.

S. 2994 has many advantages over other federal proposals previously considered or now under review, as well as some weaknesses. The fact that it amends the Omnibus Crime Control and Safe Streets Act of 1968 may be an advantage over a completely new enactment as far as its chances for passage. Unlike S. 750 which establishes a separate agency, S. 2994 provides for a Board within the Justice Department. This gives the Board a strong arm to enforce its own mandates, unlike the Commission proposed under S. 750, which relies on the Attorney General. Section 456 provides for more elaborately defined procedures than does section 206 of S. 750, thus eliminating an element of confusion as to the Board's function. I would suggest a subtitle "Awarding Compensation" to precede section 457 to enhance the logical division of the Act. Under section 457(a), an order based "on a preponderance of the evidence", as most state enactments are worded, is superior to the use of the word "discretion." Under (b), I would suggest a separate catagory providing for compensation to one injured while attempting to prevent a crime or apprehend a criminal. Both New York (N.Y. Exec. Law §631 (1966)) and Maryland (Md. Ann. Code, art. 28A, § 12 (1968)), have such provisions. Under (c), after "... determining whether to order a payment under this section ...", I would add "or the amount of any award", as seen in S. 750 301(d). This would enhance the following language which explains that awards may still be made although there has been involvement in the crime on the part of the victim. Improper wording of this preface has caused confusion in some jurisdictions as to the possibility reducing an award rather than eliminating it for the victim's involvement.

Section 461 apparently limits the maximum payment for attorney fees to be \$1000 by use of 18 U.S.C. 3006A. I would suggest a percentage basis as an alternative, or merely allow the Board to decide whether the payment for representation was excessive. This change would help to assure adequate legal

representation for all victims.

Section 462 has apparently disallowed pain and suffering as part of the compensation as was provided for in S. 750 section 305(4). If this is the case, it may be a good idea due to New Zealand's experience as to its expense. But unlike our court structures, the Board determines all cases, and thereby provides for uniformity in the decisions, and thus some control on such awards if they were to be given.

Under section 463, judicial review of the Board's decision is taken into account. Previous federal proposals such as S. 2155, 89th Cong., 1st Sess. (1965), and some presently existing state laws provide for finality in the decision of the agency. This denial of judicial review has raised questions as to a denial of due

process. See 47 Notre Dame Lawyer 88, 106 n. 126 (1971).

Section 464 provides that awards are limited to those victims suffering undue financial hardship. Due to what I feel is an inability to define what constitutes "financial hardship" in our society on an individual basis, I strongly disapprove of this inclusion and prefer the language contained in S. 750 section 307. I believe the award should constitute not a gratuity but a legal right under a social insurance program to be utilized by all citizens when injured.

"[1]f we are to accept the theory of indemnification as opposed to aid, the plan should unindiscriminately encompass all citizens and be fully severed from any welfare philosophy. Thus the vital issue is whether we want socialized criminal loss insurance or merely a program of public assistance. Hybrid substitutes do no more than create expensive and needless administrative pro-" 4 Harv. Legis. 127, 129 (1966)

See 47 Notre Dame Lawyer 88, 97, 118, n. 103, n. 121 (1971).

Also under section 464, (d) excludes the family of the criminal from coverage. While in most instances this may seem entirely proper, would it not be best left to the Board's discretion? See Floyd, Massachusetts' Plan to Aid Victims of Crime, 48 B.U.L. Rev. 360, 364 (1968). Subsection (f) provides the maximum award to be \$50,000, but does not indicate whether it is to be a lump-sum award or periodic payments. This point is in need of clarification.

Section 465(4) provides that insurance benefits are to be deducted from the award. Besides the gut reaction against awarding only the uninsured, this theory seems totally opposed to the evidentiary principles of the common law. The constitutionality of such provisions has also been raised. See 47 Notre Dame Lawyer 88, 110 (1971). Within this section I would also suggest a provision directly awarding payments to institutions providing services to victims, such as

hospitals and mortuaries. Experience has shown that often victims do not fulfill their financial obligations. This type of provision has recently been recommended

in Hawaii. 47 Notre Dame Lawyer 88, 108n. 139 (1971).

Section 466 provides for emergency payment preceding an award when undue hardship may result without such assistance. This is a much needed provision based on the experience of the states participating in the compensation scheme. However, a ceiling to the amount of the award, such as the \$500 provided by New York would seem necessary. N.Y. Exec. Law § 630 (1966).

Sections 467 through 469 and section 104 of 18 U.S.C. § 3597 providing for the formation and maintenance of an indemnity fund are extremely important innovations. First, this scheme provides a fund to collect and pay out awards to victims. Secondly, by identifying the fund and its purpose, perhaps criminals paying damages or fines will be made more aware that their offense had its effect not only on society as a whole, but upon his individual victim as well The system of additional fines will produce much needed revenue to help compensate for uncollectable actions against offenders. See 47 Notre Dame Lawyer 88, 117 (1971).

Section 470 provides for a duty to inform the victim of his eligibility for compensation consideration. Unawareness on the part of the public has been

one of the major shortcomings of present state programs.

The federal grant program is really the key to the future of compensation programs in the United States. Due to financial difficulties, many states feel they are unable to promulgate such needed legislation. By its grants to states having such programs, S. 2994 can insure passage of many enactments modeled on its provisions. Under the "state agency", the present court structure of the Massachusetts program may be in danger. However, if this is true, great incentive to remodel the existing structure is provided. The system has been inefficient on the whole due to crowded courts. See 47 Notre Dame Lawyer 88, 110 (1971). I would suggest strong language concerning a withdrawal of funding for failure to comply with the requirements of section 105, as provided for in S. 750 section 506.

While the additional subjects provided for in Titles II through IV are not my forte, I will briefly comment on them. Title II provides a sorely needed program to insure adequate insurance to public safety officers called upon to face great danger for often inadequate pay. Title III gives these people much the same coverage given to private victims of crime, again a needed program. Title IV is a strong measure to aid the victims of organized crime and racketeering. However, to provide recovery from injuries to business perpetrated by racketeering activity suggests that the victims of other crimes involving a loss of property should also be compensated. Only Hawaii and California have such provisions, and this to a very limited extent. See Cal. Gov't Code §§ 13970 (1969) ct seq. and Hawaii Rev. Laws § 351–32 (1967).

Thus while possessing certain defects, S. 2994 has the ability to provide much needed relief for victims of crime within the jurisdiction of the federal government. In addition, through careful drafting and the grants provided for within the bill, it has the potential of being the key to adoptation by the states of proper

consideration to the unfortunate victims of crimes of violence.

AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES, Washington, D.C., January 31, 1972.

To: K. Lazarus. From: Margie Siege.

Re: Victims of Crime Act of 1972.

The attached material is reprinted from a booklet entitled: Fringe Benefits in State Government Employment, which was published for the Committee on State Budget Research of the National Association of State Budget Officers.

It was prepared in May, 1968, and was published by the Council of State Governments, 1313 East Sixtieth Street, Chicago, Illinois, 60637.

Group Life Insurance (Table 7)

Group life insurance plans are offered in forty States. Usually the plan is available to all employees, often excepting part-time or temporary workers, after a nominal waiting period or no waiting period at all. Although the schedules of insurance very considerably among the States, commonly either a flat amount or a percentage of the salary is paid. The State pays the full amount of the premium in four States and a portion of the premium in thirteen States. Additional life insurance is offered beyond the basic plan in eight States, and in almost all States the policy is convertible to a private plan when the employee leaves.

During the last five years few programs have changed, but new ones have been

initiated in Kansas and Missouri.

TABLE 7.—GROUP LIFE INSURANCE PLANS FOR STATE EMPLOYEES

States	Participation optional or mandatory	Classes eligible	Waiting period S	Schedule of insurance	Percentage of premium paid by employee	Percentage of premium Additional life insurance paid by employee available	Policy convertible to private one upon leaving State service
Alaska	Optional	All	90 days	\$2,000.	Varies (combined with medical plan).	None	Yes.
ArizonaArkansas	Optional do	All Optional plan offered by	None d by	y agency	100 percent	None	Yes. Yes; depending on type
Connecticut	Optional.	employee's organizations. Full-time, permanent 6 months.	6 months		20¢ biweekly per \$1,000.	None	of policy chosen. Yes.
Delaware Florida Georgia	Optional and	for employ. Permanente nployees	None	Varies by agency————————————————————————————————————	100 percent.	Varies None	Usually no. Only upon retirement from State service.
Hawaii	tem prior to age 51.	All	None	d plan maxi-	None	None	Yes.
llinois.	Optional.	Members of employees' association.	op	mu ii \$10,000. \$12,000 at age 20 to \$550 at age 69.	100 percent	\$30,25 per year	Yes.
Indiana Iowa Kansas	No plan. Do. Mandatory, for members of retire-	Contributing members under 65,1	1 year	50 percent of member's tinel average salary at	None	None	Yes; amount decreases from age 60 to 65.
Kentucky Luisiana Maine	ment system. Optionaldodo	All All permanent	30 days	Varies. Salay rounded to next \$1,000 regular plus salary rounded to next	100 percent	Not ascertained	Not ascertained. Yes. Yes.
Maryland Massachusetts	op	Employees' associa	Employees' association plan available on payrill (cduction basis.	ial.	50 percent.	ained annual salary 100 percent of	No. Yes.
MichiganMichiganMinesota	Mandatory	All.	2-week pay period 78 days	Next \$1,000 of annual salary. \$5,000 \$2,000	25 percent	the cost. Dependent coverage— employee pays all. Up to \$10,000 additional	Yes. Yes. Yes.

regarded by the members of pension in the pension in the members of pension in the members of pension in the members of pension in the pension in the pension in the members of pension in the pension in the pension of pension in the pension in the pension in the pension in the pension plan available on payroll deduction basis. State phice and pension plan available on payroll deduction basis.	Missouri Montana Nebraska	No plan.	Various plans available at all	to \$5 000 hased on	1	Yes Yes.	
Mandatory for perma- Mambers of pension None————————————————————————————————————		wants health insurance plan, which is optional.	All full-time 6 months	ry. to \$2,000	E.		paid up value.
Optional Employees' association plan available on payroll deduction basis. Optional Employees' association plan available on payroll deduction basis. Optional Employees' association plan available on payroll deduction basis. No plan. Optional Employees' association plan available on payroll deduction basis. In pays percent pays percentage. In pays percent pays percent pays percent pays percent pays percent. In particular pays percent pays percent. In pay		Mandatory for perma-	None	nes annual salary			ithin 31 days.
Comparison Employees' association plan available on payroll deduction basis. 100 percent.		Optional	op	ding to salary;	80 percent		
Do. Various plans according to discretion of agencies. Optional, except for Employees' association plan available on payroll deduction basis. State Polico and payroll deduction basis. State Polico and payroll deduction basis. No State plan. Optional All Fall-Lime under 70 None. \$25,000. All permanent I month. \$25,000. All permanent have different insurance programs with various carriars. Optional All permanent None. \$2,000. All permanent None. \$2,000. State pays percent. \$3,000. State pays beforent. \$3,000. State pays balance. \$2,000 for each \$1,000. State pays balance. \$2,000 for each \$1,000. All permanent time None. \$2,000 for each \$1,000. All permanent Varies. \$2,000 for each \$1,000. State pays balance. \$2,000 for each \$1,000. State pays balance. \$2,000 for each \$1,000. State pays balance. \$2,000 for each \$1,000. All permanent varies. None. \$2,000 for each \$1,000. State pays balance. \$2,000 for each \$1,000. All permanent varies. None. \$2,000 for each \$1,000. State pays balance. \$2,000 for each \$1,000. State pays ba	Vew York Vorth Carolina	Optional	Employees' association plan available on payroll dec	duction basis.3	100 percentdodo	(f).	
100 percent. None	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	Do. Optional,* except for State Police and penifentiary guards	Various plans according to discretion of agencies. Employees' association plan available on payroll d	eduction basis.	100 percent. **Stats 100 percent **Stats pays percentage.	Various plans according to discreti	ion of agencies.
And state plan, various delapermanent. I month. Basard on salary. No State plan, various delapermanent in month. Basard on salary. Optional. All permanent full time None. \$2,000. To percent. To percent. None. Salary il under aga. 51, reduced annually thereafter. None. None. Salary the salary. None. Salary to next highest salary. None. Salary to next highest salary.		Optional	None	on salary policy. al; minimum		lanained	te plan. certained.
Mandatory. All permanentfull time None \$2,000 for each \$1,000 72 percent. do. Salary, if under 83: 51, reduced annually thereafter. Optional. All. Varies. Varies by plan. 100 percent . Yes	ennessee exas	No State plan; various d	S25, All permanent. 1 month 8334 (25), All permanent. 8334 (25), All permanent 1 month	on salary			
thereafter. Varies by plan. 100 percent . Yes		Mandatory	\$2	for each \$1,000 ry; if under age reduced appually	State pays balance. 72 percent		
Participating member 6 months 100 percent of annual 70 percent None	Washington	Optional	Varies.	eafter. by plan			ost, yes; but no ewide policies.
			6 months 10	reent of annual ry to next highest			

¹ Group life and loss of time policies available to the members of the Kansas Highway Commission through the Highway Commission Employees Association. Life and related coverage available to actually at the institutions under the board of regents through an employee association.

² Percentage reduced 14 40 percent at age 61; 30 percent age 62; 20 percent at age 63; 10 percent at age 64; and 0 percent at age 65.

3 New York does not provide a group life insurance benefit for its employees. However, a "survivors" benefit" is provided the beneficiary of any deceased full-time employee who had at least 90 days service. This benefit is an amount, which when added to the retirement death benefit, guarantees ½ of the last years' salary to the employee's beneficiary.

4 Employees' association plan available on payroll deduction basis.

U.S. DEPARTMENT OF JUSTICE, Washington, D.C., April 12, 1972.

Re Criminal fines.

Mr. KEN LAZARUS,

Assistant Counsel, Senate Judiciary Committee, Sub-committee on Criminal Laws and Procedures, New Senate Office Building, Washington, D.C.

Dear Mr. Lazarus: This is in response to your telephone request of April 11, 1972.

The Criminal Division Collection Unit supervises and coordinates the collection activity of the United States Attorneys with respect to criminal fines, appearances bond forfeiture judgments, criminal penalties, and criminal court costs.

The Tax Division Collection Unit handles all tax collection cases, to include criminal tax cases. You may wish to contact either Mr. Philip I. Brennan (739-2987) or Mr. Harold J. Tulley (739-4348) to determine more precisely the activ-

ities of that Unit.

All civil post-judgment matters are coordinated by the Civil Division Collection Unit. Its chief is Mr. Enoch E. Ellison (739-3586). Prejudgment civil collection cases are supervised by the Civil Division General Claims Section headed by Mr. Russell Chapin (739-3322).

Concerning criminal fines, the total dollar amount imposed and the total dollar amount collected during the fiscal year within a particular judicial district can be totaled from the "Monthly Statistical Report of United States Attorney" (Form USA-5). The Form USA-5 is submitted monthly by each United States Attorney's Office to the Administrative Division's Office of Management Support which processes the data reported. The Form USA-5 reports the fines paid during the month, as well as other administrative information concerning office procedure.

The Form USA-5 yearly summaries for the years 1955 through 1971 show the following fines imposed and collected:

FINES IMPOSED AND COLLECTED FISCAL YEAR COMPARISON

'ear	Imposed	Collected	Percentag of collectio to impositio
071	\$8, 342, 947	\$8, 444, 647	10
971	6, 973, 976	5, 912, 142	8
970	6, 589, 280	5, 383, 297	8
969	6, 546, 689	5, 460, 657	8
968	6, 737, 270	5, 415, 892	8
967	7, 747, 243	6, 942, 827	ğ
966	6, 865, 285	6, 552, 863	ġ
965	8, 004, 716	5, 853, 283	
963	6, 944, 661	5, 814, 217	
962	6, 727, 357	5, 293, 400	
961	6, 445, 713	4, 973, 152	
	6, 732, 580	5, 129, 392	
960 959	5, 316, 926	4, 364, 181	
358	5, 509, 724	4, 874, 028	
957	6, 172, 039	4, 748, 603	
956	6, 373, 753	4, 701, 866	
955	6, 924, 971	4, 874, 341	

Impositions reflect actual court judgments for each fiscal year; collections reflect collections on all outstanding criminal judgments for all years. Thus, the possibility of the 102 percent rate for fiscal year 1971.

Impositions do not always match collections. This can be attributed to several factors:

1. Fines abate at the death of the debtor; they may not be collected from his estate. When a debtor dies, the fine must be closed as uncollectible.

2. Corporate fined abate when a corporation dissolves, either voluntarily or involuntarily. This is equivalent to the death of the individual fine debtor. Therefore, these fines too must be closed as uncollectible.

3. In some cases fines are imposed on impecunious debtors. Even though thorough and aggressive collection attempts are made, collection cannot be effected in these cases.

4. In many cases fines are imposed as conditions of probation. In accordance with 18 U.S.C. § 3651, if the probation is allowed to terminate at the end of the probationary period (not to include revocation), the debtor's liability for any unpaid portion of the fine is terminated and it must be closed as uncollectible.

5. Some defendants are sentenced to life imprisonment and a fine. If, at the time of imposition, these debtors have no assets with which to satisfy

the fine, collection success at a later time is unlikely.

6. Some defendants are assessed a fine and deported in the same order. Since traditional collection techniques are not available in foreign jurisdictions, collection efforts in these cases are seldom successful.

7. Some debtors receive Presidential pardons and thus these impositions

also cannot be collected.

In none of the above instances does the Form USA-5 reporting system provide for a reduction of the yearly "imposed" total. Thus, these legally uncollectible amounts are still reflected in the total amount imposed, thereby unavoidably reducing the percentage of collection to imposition.

We hope that you find these figures helpful. If we can be of any further as-

sistance, please advise.

Very truly yours,

JOHN J. KLEIN, Attorney, Criminal Collection Unit, Criminal Division.

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CONGRESSIONAL RESEARCH SERVICE

COMPENSATION FOR VICTIMS OF CRIME; LAW REVIEW ARTICLES, 1960-1971

1. "Compensation for victims of crime: the New Zealand experiment." Bruce J. Cameron. *Journal of Public Law*, 12:367, 1963, Series unavailable at this time.

2. "Compensation for victims of crimes of violence." Edward Griew. *Criminal Law Review*, (English), 1962:801. December, 1962. Mr. Griew is British, a barrister-at-law.

3. "But what about the victim? The forsaken man in American criminal law." (no author). *University of Florida Law Review*, 22:1. Summer, 1969. The author is Michael P. Smodish, staff member of the law review.

4. "Alternatives to a compensation plan for victims of physical violence." Joan M. Covey. *Dickinson Law Review*, 69:391. Summer, 1965. Miss Covey is Law Librarian and Assistant Professor of Law, Dickinson School of Law.

5. "California enacts legislation to aid victims of criminal violence." Stanford Law Review, 18:266. November, 1965. The author is James E. Culhane, staff

member of the law review.

6. "Compensating victims of violence." David L. Foulkes. American Bar Association Journal, 52:237. March, 1966. Mr. Foulkes is Lecturer in Law at the Welsh

College of Advanced Technology (Cardiff).

7. "Compensation for criminally inflicted person injury." Robert D. Childres. New York University Law Review, 39:444. May, 1964. Robert D. Childres: Professor at Northwestern University School of Law. Practiced law in New York, 1960-62; Assistant Professor, New York University, 1962-65; Associate Professor, 1965-68; Visiting Associate Professor, Northwestern University, 1967-68, Professor since 1968.

8. "Compensation for the victims of criminal violence." St. John's Law Review,

40:67. December, 1965. No author listed.

9. "Compensation for victims of crime," University of Chicago Law Review,

33:531. Spring, 1966. No author listed.

10. "Compensation for victims of crime—some practical considerations." *Buffalo Law Review*, 15:645. Spring, 1966. The author is Robert A. Sandler, staff member of law review.

11. "Compensation for victims of crime." Vanderbilt Law Review, 19:220.

December, 1965. No author listed.

12. "Compensation for victims of crimes of violence." Albany Law Review, 30:325: 31:120. June, 1966—January, 1967. The author is Norman I. Siegel, on staff of law review.

13. "Compensation for victims of violent crimes: an analysis." William & Mary

Law Review, 8:277. Winter, 1967. The author is Robert E. Scott—no biographical data given.

14. "Compensation to victims of crimes of personal violence." J. L. J. Edwards. Federal Probation, 30:3. June, 1966. Director of Centre of Criminology, Univ. of

Toronto, Canada.

15. "Compensation to victims of crimes of personal violence—an examination of the scope of the problem: a symposium." (The various authors are Gerhard O. W. Mueller, Marvin E. Wolfgang, Stephen Schafer, Ralph W. Yarborough, Robert D. Children, and James E. Starrs). Minnesota Law Review, 50:211. December, 1965.

Ralph W. Yarborough: former U.S. Senator, 2527 Jaratt Ave., Austin, Texas. Gerhard O. W. Mueller: Professor and Director, Criminal Law Education and Research Center, New York University School of Law; born 1926; Jervey Fellow, Columbia, 1954–55; instructor, University of Washington, 1953–54; Assistant Professor, West Virginia University, 1955–56; Associate Professor, 1956–57; Senior Fellow, Yale, 1957–58; Associate Professor, New York University, 1958–60; Professor since 1960.

Robert D. Childres: see above.

James E. Starrs: Professor, George Washington University School of Law; born 1930; Ford Fellow, New York University, 1963; N.Y.S. Regents Fellow, New York University, 1959; Associate, Lawless and Lynch, New York City, 1958; Teaching Fellow, Rutgers, Newark, 1959-60; Assistant Professor, DePaul University, 1960-64; Associate Professor, George Washington, 1964-67, Professor since 1967.

Marvin Wolfgang is Professor of Sociology, University of Pennsylvania; Director, Center for Studies in Criminal Law, University of Pennsylvania.

Stephen Schafer is Professor of Sociology and Criminology, Northeastern

University.

16. "Compensation to victims of violent crimes." Northwestern University Law

Review, 61:72. March-April, 1966. This article is unsigned.

17. "Crime-torts: due process of compensation for crime victima." Luis Kutacr. Notre Dame Lawyer, 41:487. April, 1966. As of 1966, Mr. Kutner is not employed anywhere; he apparently is a free-lance writer on law--former Associate Professor at Yale Law School—is associated with the World Peace Through Law Center.

18. "Criminal law—compensation to victims of violent crimes." *Tulane Law Review*, 40:649. April, 1966. The author is Glen G. Magnuson, Jr., apparently on

staff of law review.

19. "Criminal law—reforms—Great Britain approves compensation program for victims of criminal violence." *Harvard Law Review*, 78:1683. June, 1965. No author listed.

20. "Experimental design and the law: a prospectus for research on victim-compensation in California." Gilbert Geis. California Western Law Review, 2:85.

Spring 1966

Gilbert Geis: faculty member California State College at Los Angeles, 1957 to present; Professor of sociology, 1963 to present; 500 Crane Blvd., Los Angeles, Cal., 90065. Born 1925.

21. "State compensation for criminally inflicted injuries." Paul Frederick Rothstein. Texas Law Review, 44:38. November, 1965. Assistant Professor of Law,

University of Texas.

22. "State statute to provide compensation for innocent victims of violent crimes." Harvard Journal on Legislation, 4:127. December, 1966. Volume unavailable.

23. "Violated: a proposal to compensate victims of violent crimes." Leroy G. Schultz. St. Louis University Law Journal, 10:238. Winter, 1965. Schultz is (or was in 1965) Deputy Chief Probation and Parole Officer, Circuit Court for Criminal Causes, St. Louis, Missouri.

24. "Compensation for victims of urban riots." Columbia Law Review, 68:57.

January, 1968. This article is unsigned.

25. "Compensation to victims of violent crime." Glenn Eldon Floyd. Tulsa Law Journal, 6:100. March, 1970. Floyd is in private practice of law with Fagin and Haswell, Oklahoma City.

26, "Innocent bystander and crime." Leon Shashkolsky. Federal Probation, 34:44. March, 1970. Assistant Professor, Department of Sociology, Anthropology, and Social Work, University of Dayton, Ohio.

27, "Massachusetts' plan to aid victims of crime." Glenn Eldon Floyd. Boston

University Law Review, 48:360. Summer, 1968.

Glenn Eldon Floyd: see #25.

28. "Reparation or restitution by the criminal offender to his victim: applicability of an ancient concept in the modern correctional process." Bruce R. Jacob. Journal of Criminal Law, Criminology & Police Science, 61:152. June, 1970. Volume in bindery.

29. "Symposium: governmental compensation for victims of violence." Southern California Law Review, 43:1, 1970. (The various authors are Arthur J. Goldberg, Marvin E. Wolfgang, LeRoy L. Lamborn, Stephen Schafer, Willard A. Shank, Ralph W. Yarborough.

Arthur J. Goldberg: Former Supreme Court Justice, now in practice of law in

New York City, no firm or address listed.

LeRoy L. Lamborn: Visiting Associate Professor, Wayne State University Law School: born 1937; Graduate Fellow, Yale, 1962-63; Krulewitch Fellow, Columbia, 1964-65; Assistant Professor, University of Florida, 1965-69; Visiting Associate Professor, Wayne State, 1970-71.

For Wolfgang, Schafer, and Yarborough, see above (#15).

Shank is simply listed, as of 1970, as a member of the California bar, presumably in private practice.

30. "Toward a victim orientation in criminal theory." LeRoy L. Lamborn.

Rutgers Law Review, 22:733. Summer, 1968.

31. "Victim compensation plans." Glenn Eldon Floyd. American Bar Association Journal, 55:159. February, 1969.

Glenn Eldon Floyd: see above.

32. "Victims of violent crime: should they be an object of social effection?" Mississippi Law Journal, 40:92. December, 1968. The author is H. Donnie Brock, on the review staff.

33. "Year's experience with the Massachusetts compensation of victims of violent crime." Samuel A. Vitali. Suffolk University Law Review, 4:238. Winter, 1970. Vitali is Legal Counsel, Speaker's Office. Massachusetts House of Representatives.

34. "Compensation for the victims of crime: justice for the victim as well as the criminal." Herbert S. Denenberg. Insurance Law Journal, 1970:628. November, 1970. Dennenberg is Loman Professor of Insurance. Wheaton School of Finance and Commerce, University of Pennsylvania.

35. "Criminal restitution: a survey of its past history and an analysis of its present usefulness." Richard E. Lester. University of Richmond Law Review,

5:71. Fall, 1970. Volume out.

36. "Criminal victim compensation in Maryland." Maryland Law Review, 30:

266. Summer, 1970. Article unsigned.

37. "Crime victim compensation: the New York solution." Albany Law Review, 35:717. 1971. Volume out.

38. "Criminal injuries compensation in Britain." David Hume Harrison, American Bar Association Journal, 57:476. May, 1971.

Harrison is Secretary of Criminal Injuries Compensation Board in Britain. 39. "Governmental compensation for riot victims." Santa Clara Lawyer, 11:415.

Spring, 1971. Volume out.
40. "Insurance for the criminal." John G. Fleming. Modern Law Review.

34:176. March, 1971.

John Gunther Fleming: Professor of Law. University of California (Berke-

ley); home—836 Spruce St., Berkeley, California.

41. "New York crime victims compensation board act: four years later." Columbia Journal of Law & Social Problems, 7:25. Winter, 1971. Article

42. "Victims of crime and other victims." Walter J. Blum. Chicago Bar Record, 52:463, June, 1971; University of Chicago Law School Record, 18:3, Spring, 1971.

Walter J. Blum: Educator, lawyer, Professor of Law at University of Chicago Law School, 1953 to present (member of faculty since 1946); home-5724 S. Kimbark Ave., Chicago, Illinois.

Washington, D.C., March 29, 1972.

Hon. JOHN L. McCLELLAN,

Chairman, Subcommittee on Criminal Laws and Procedures, Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: In the course of work on the Law Enforcement Officers' Group Life Insurance and Victims of Crime Bills, my office has received numerous letters commenting on the various proposals. These letters reflect the need for prompt federal action to make low-cost group life insurance available to public safety officers across the nation, and they overwhelmingly endorse a pro-

gram along the lines we have been contemplating.

Since many of the letters do not overlap with those you have received on the same subject, I have had my staff select those which provide the most articulate views or valuable information. With your permission, I should like to ask that the enclosed letters be reprinted in the record of our hearings on the several bills pertaining to victims of crime.

Sincerely,

EDWARD M. KENNEDY.

CITY AND COUNTY OF SAN FRANCISCO, SAN FRANCISCO FIRE DEPARTMENT, San Francisco; January 7, 1972.

EDWARD M. KENNEDY, U.S. Senator, Washington, D.C.

Dear Senator Kennedy: This is in reply to your letter of December 29, 1971 regarding Senate Bill No. 2995.

1. Do many of the public safety officers you know feel they do not have enough

life insurance?

Yes, due to the increased cost. (50% more).

2. Is it your impression that many officers feel their salaries are too low to afford enough life insurance, even if it is available at regular rates?

If available at regular rates I feel that most officers could afford more life

insurance.

3. Do you think they would want considerably more coverage if it were available at lower cost?

I am not prepared to say that they would want considerably more insurance.

4. Do you know if public safety officers sometimes have trouble buying adequate life insurance? For example, do they sometimes have to pay higher rates, do they encounter reluctance to issue life insurance at all, or do they find important extra benefits—such as double indemnity for accidental death and benefits for accidental loss of eye or limb—either unavailable or more expensive?

Rates for Firemen and Police are 50% more than for ordinary occupations.

5. Do you think most of the officers you know would be likely to want to par-

ticipate in a nationwide, federally supported program of life, accidental death, and dismemberment insurance for public safety officers?

Yes.

Sincerely.

KEITH P. CALDEN. Chief of Department. [BY DIRECTION] JOSEPH P. DALY. Chief. Division of Administration. HEADOUARTERS, FIRE DEPARTMENT. Springfield, Mass., January 24, 1972.

Hon. EDWARD M. KENNEDY, U.S. Senator, Washington, D.C.

Dear Sir: Thank you for your consideration and concern for the firefighters of Massachusetts and the nation and also for consulting us before actions are taken that will effect our profession.

On reading both S. 2995 and S. 2994; title II, I concur wholeheartedly that S. 2995 is the better provision. By adopting this section all firefighters will have the same benefits available to them and prevent unsympathetic local officials from denying this protection to the firefighters.

Unfortunately, we feel that the firefighting profession is the least understood and appreciated than any of the agencies connected with public safety. We need only refer to the national statistics to prove that it is the most dangerous as evidenced by the rate of deaths and injuries which now leads all other occupa-

tions barring none.

For this reason, insurance companies are not so eager to sign us up for large policies at low costs. As is the case in many instances, a firefighter in the lower ranks cannot afford heavy insurance premiums at a time when they and their families are young, expenses great and many, and their salaries are lowest. By the time they have received promotions and may afford it, the rates have increased due to age and proper protection is still beyond their means.

In answer to your questions, most firefighters do not feel as though they have

ample coverage.

Salaries are too low to afford proper coverage.

Yes they most definitely would want considerably more protection.

I do not know if premiums are higher for firefighters at this time, but suspect

that they are due to the previously mentioned national statistics.

We do have a plan in which the city and the employee share half in the payment of insurance for 2,000 natural death and 4,000 accidental death with clauses for dismemberment. We also have the option of buying extra insurance at our cost (the city does not share costs) on an amount up to the closest 1,000 in annual salary. However, this insurance is bid on every 2 years and this insurance company might not get the contract and any other successful bidder may not offer this.

Yes, most assuredly, all firefighters would want to participate in a nationwide, federally supported program of life, accidental death and dismember-

ment insurance for public safety officers.

I am enclosing information on our present insurance options. Again let me say that in the event another successful bidder on this insurance does not wish to offer this option, any protection which could be considered ample, would be out of reach if continued under individual insurance. This plan includes all municipal employees.

I would be happy to answer any other questions on this matter. Sincere best

wishes and good luck.

Yours very truly,

Angelo Disanti, Acting Chief, S.F.D.

CITY OF SPRINGFIELD, MASS.

ADDITIONAL INSURANCE

Mayor Freedman has authorized the employees of the City of Springfield to purchase additional group life insurance (under Section 11A of Chapter 32-B). This plan supplements the basic program (\$2,000), now in effect.

Who is eligible?—Anyone who has the basic plan and earns \$2,000 or more

annually.

How much can I buy?—You may purchase any amount of insurance up to your annual salary rounded off to the next highest thousand less the \$2,000 of basic insurance which you already have. For example, if your annual salary is \$6,500, you may purchase \$5,000 of optional insurance. This amount added to the basic would total \$7,000. See the chart below.

How do I pay?—The cost is handled through convenient payroll deductions. Do I have to take the maximum amount?—No, you may take \$1,000 or any

amount in increments of \$1,000 up to your legal maximum.

PLEASE COMPLETE FULLY ALL QUESTIONS (MEDICAL QUESTIONS INCLUDED), SIGN AND DATE BOTH SIDES OF THE APPLICATION CARD AND RETURN IT TO YOUR DEPARTMENT HEAD AS QUICKLY AS POSSIBLE

The rates are low:

Age classification:	hly rate \$1,000
To age 45	 \$0.50
Age 45 to 5455 to retirement	 1. 00 2. 00
oo to rettrement	

The cost includes the Life and Accidental Death and Dismemberment insurance.

Reasons for you to join:

1. Provides additional benefits to your loved ones.

2. Benefits are paid regardless of cause of death. Benefits are doubled in the event of accidental death.

3. The premium is low and guaranteed.

4. The premium is handled by payroll deductions.

5. The Plan is 100% employee supported.

We urge each eligible employee to join and support this Program for at least the minimum of \$1,000. If 75% of the eligible people apply, all will be accepted regardless of the medical problems. If less than 75% of eligible people apply, some people may be declined due to medical problems. A Boston Mutual representative will be available to answer any questions you may have.

Sincerely,

FRANK FREEDMAN,
Mayor, City of Springfield.

Eligible Employees may purchase insurance as provided by the following schedule:

If annual cor	npensation is—	Optio	nal
At least—	But less than—	Additional amount of group life insurance shall not exceed—	Additional amount of accidental death and dismember- ment shall not exceed—
\$2,000 3,000 4,000 5,000 6,000 7,000 9,000 10,000 11,000 12,000 14,000 15,000 16,000 17,000 18,000 19,000 20,000 21,000 22,000	\$3,000 4,000 5,000 6,000 7,000 8,000 10,000 11,000 12,000 13,000 14,000 15,000 17,000 18,000 17,000 18,000 20,000 21,000 22,000 23,000	\$1,000 2,000 3,000 4,000 5,000 6,000 7,000 8,000 9,000 10,000 11,000 12,000 13,000 14,000 15,000 16,000 17,000 18,000 19,000 20,000 21,000	\$1,000 2,000 3,000 4,000 4,000 5,000 6,000 7,000 8,000 9,000 10,000 11,000 12,000 13,000 14,000 15,000 16,000 17,000 18,000 17,000 18,000 19,000 21,000 21,000

POLICE DEPARTMENT, New York, N.Y., February 14, 1972.

Hon. EDWARD M. KENNEDY, U.S. Senator, Washington, D.C.:

In response to your inquiry of December 29, 1971, regarding the attitude of members of the New York City Police Department toward low cost group life insurance for members of law enforcement agencies patterned after the Servicemen's Group Life Insurance Program, three hundred members of the patrol force were canvassed. This sampling indicates an overwhelming desire for additional low cost insurance. However, those canvassed wished information on the convertibility of such insurance upon separation from the Department.

Of those canvassed 78% (234) stated that many police officers they knew did not have enough life insurance. 22% (66) stated that many of the police officers

they knew had sufficient coverage.

95% (284) indicated that most police officers felt that their salaries were too low to afford adequate life insurance. 5% (16) felt their salaries were not too low to prevent purchase of adequate coverage.

82% (247) stated they wanted considerably more coverage if it were available at lower cost. 18% (53) would not want considerably more coverage.

91% (274) have not encountered any difficulty in buying adequate coverage

at regular rates, 9% (26) indicated that they had encountered difficulty.

95% (295) stated that most of the officers they knew would be likely to participate in a nation-wide, federally supported program of life, accidental, death and dismemberment insurance for public safety officers. 5% (15) indicated that most of the officers they knew would not be likely to participate in such an insurance program.

The law enforcement members of this department strongly support a nationwide, federally supported program of insurance coverage as proposed in S. 2995,

which you have introduced.

With best wishes, I am Sincerely,

PATRICK V. MURPHY Police Commissioner.

CITY OF LOS ANGELES. DEPARTMENT OF POLICE, Los Angeles, Calif., January 25, 1972.

Senator Edward M. Kennedy, U.S. Senate, Committee on the Judiciary, Washington, D.C.:

In response to your letters of December 13, 1971, and December 29, 1971, I am enclosing a series of comments on the sections of your proposed bills which deal

with benefits for public safety officers, and which are currently pending before the Subcommittee on Criminal Laws and Procedures. Generally, I approve of the intent embodied in both versions of the bill which have been analyzed in the

enclosed report.

In the past, it has been difficult for our officers to obtain adequate, low-cost life, accident and dismemberment insurance. I am pleased to note that you have recognized the attendant problems in this area, and that a satisfactory solution seems imminent.

> JACK G. COLLINS, Assistant Chief, Acting Chief of Police.

ANALYSIS OF S. 2995 AND S. 33

1. We strongly favor the provisions of both bills which entitle a state or subgroup, which has already implemented a satisfactory plan, to qualify for a federal subsidy which applies to premium payments due from the insured. The provisions which provide for a choice between the federally-sponsored plan or the retention of an existing plan are especially desirable to departments in our

present situation.

2. Apparently, neither proposal is designed to meet the financial needs of public safety officers. In both cases, the coverage offered is minimal, and dependent solely upon the respective officer's salary level. This criticism applies to S. 1946 and S. 2994 as well. An individual's needs will differ in relation to the number of his dependents, their respective ages, and other similar factors. Accordingly, we would hope that increased coverage would be made available to all public safety officers. Perhaps one of the following alternatives would be feasible:

a. Provide the minimum coverage with the included federal subsidy, and then allow officers to obtain any desired additional coverage with an attendant federal subsidy that would remain constant or decline in proportion to

the respective amount of increased coverage.

b. Alternatively, the minimum coverage with subsidy could be provided, and those officers seeking additional coverage would assume the full nonsubsidized cost of said addition. Participation in this manner, in a federallysponsored program, would eliminate the short term cancellable forms of coverage which are now being made available to law enforcement personnel.

3. Both proposals call for the termination of coverage "thirty-one days after (1) his separation or release from full-time duty as such an officer, or (2) discontinuance of his pay as such an officer, whichever is earlier." This provision makes no allowance for officers who have been suspended for any appreciable period without pay, or for officers on temporary leave of absence without pay. We feel that this section should be amended to insure continued coverage for officers in these and similar circumstances.

4. We endorse the provisions of S. 2995 which extend eligibility for coverage to a broad range of public safety personnel. This preference is in deference to

the narrower definition contained in S. 33.

5. We presume that all payments made to beneficiaries in monthly installments will include the interest accrued by the insurance company on the total benefit retained by said company during the installment period. All four proposed bills are silent on this point, and we are unable to determine if this type of provision must mandatorily be included in all policy contracts throughout the United States.

Presently, our law enforcement personnel have a choice of three group policies available for their participation. Coverage includes: (1) a \$2,000 straight life policy; (2) a 15-30 life, accident and dismemberment policy; and (3) a 25-50 life, accident, and dismemberment policy. All premium payments are paid directly by the individual, at a cost of 60 cents, \$6, or \$9 per month, respectively. The choice of policy is not dependent upon an individual's salary level. It is contemplated that in the near future, a 50-100 policy will be made available to

our personnel for \$8 per month.

At present, many of our officers feel that they do not have enough life insurance. Most are financially able to afford the current coverage. However, if additional coverage became available without a reduction in rates, there would undoubtedly be those who would consider such an increase as beyond their means. Our problem has not been the availability of minimum coverage, but rather the surety of adequate benefit levels. Additionally, our policies are underwritten on a short term basis only. It is quite likely that our officers would participate in a nationwide, federally-supported program, if the program offered advantages which would exceed our present form of coverage.

DEPARTMENT OF FIRE, Atlanta, Ga., January 24, 1972.

Hon. Edward M. Kennedy, U. S. Senate, Washington, D. C.

Dear Senator Kennedy: I have carefully studied Senate Bills 2994 and 2995, both of which are alternate versions of the Victims of Crime Act of 1972. The proposal introduced by you known as S. 33, expanded to include all public safety officers (including firemen) and which is the basis for Title II of S. 2995, is much more attractive to firemen.

Presently, the amount of insurance coverage available to Atlanta firemen is based on salaries and is limited to a maximum of \$32,000. The maximum amount which can be carried into retirement is \$10,000. Insurance coverage for active personnel is limited as follows:

Annual salary:		mount of nsurance
6,001 thru	8,000	\$14,000
8,001 thru	10,000	16, 000
10,001 thru	12,000	20,000
12,001 thru	14,000	24,000
14,001 thru	16,000	28,000
16,001 and o	over	32,000

The above insurance costs 97 c per month per \$1,000 of which the fire employee

pays 70¢ per \$1,000 and the City pays the remainder.

Comparable insurance is provided police officers at a cost of 98ϕ per month per \$1,000 payable to the Insurance Company. Of this amount, the employee pays 70ϕ per \$1,000 and the remainder is paid by the City. You will note, that the premium for police personnel is 1ϕ higher than that for fire personnel by reason of helicopters in use in that department.

The monthly premium for insurance for general employees is \$1.25 per month per \$1,000. Of this, the employee contributes 70ϕ per month per \$1,000 and the City pays the remainder. When questioned about the higher rates for general employees, we were advised by the insurance division of the City of Atlanta that the average age of general employees is greater than that of police and

fire personnel.

The actual cost of insurance through the City of Atlanta fluctuates and is determined by the average age of participants and the total volume of insurance in force. This indicates that there is a rebate to the City from the insurance company but this varies to such a degree determined by the above, that it is impossible to acquire actual amounts. No rebates, however, are made to the employee.

Past experience indicates that the employee will acquire all the insurance made available to him. Present minimum salaries prohibits acquiring adequate insurance coverage on an individual basis, but I feel confident that fire personnel would whole heartedly endorse and participate in a nationwide, federally supported program of life, accidental death, and dismemberment insurance for all public safety officers.

Yours very truly,

P. O. WILLIAMS, Chief, Atlanta Fire Department.

STATE OF NEW YORK,
DEPARTMENT OF CORRECTIONAL SERVICES,
Albany, N.Y., January 17, 1972.

Hon. Edward M. Kennedy, U.S. Senator, U.S. Senate, Washington, D.C.

DEAR TED: I have received and read with interest, your bill S. 2995 entitled "Victims of Crime Act of 1972". Title II of said bill relates to Group Insurance For Public Safety Officers, which includes persons engaged in "any activity pertaining to a correctional program, facility or institution * * * (B)".

There is no question but that many communities within some states in these United States have no insurance protection for safety officers or where it exists, is most inadequate. Whenever an officer is killed in the line of duty, the victims of such crime are not only the officer but the widows and children who are deprived of their breadwinner.

We have an example of such a tragedy right here in the City of Albany where two policemen were recently shot and killed within two weeks of one another. The families were left in such desperate financial straits that the local news media established a fund in the name of the victims and initiated a campaign to raise money for them by public contributions. This is a sad commentary of the manner in which our society provides for those who give their lives to protect the community. Your bill is a great stride in the right direction and I strongly

support this measure.

We are very fortunate in the State of New York with its enlightened Governor and legislative body. In its labor agreement with the representatives of the correction officers, the state provides the officers who are killed in the line of duty with death benefits equal to three times the victim's annual salary. The officers are also protected against personal injury and for the cost of hospitalization under a comprehensive health insurance policy. Of course, no one, including our correction officers, feel they have enough life insurance. In general, the average correction officer cannot afford sufficient life insurance to provide his family with the funds necessary to maintain the standard of living provided by the head of the house. There is no doubt that the cost of life insurance is higher for correction officers and often times more difficult to obtain because of their hazardous occupation. I am sure that the average correction officer would want more coverage if the insurance were available at lower cost.

It was thoughtful of you to send me a copy of your legislative proposal and I appreciate the opportunity to comment on the bill and express my views. It is encouraging to know that there is someone in the Federal Government who is sufficiently concerned about our law enforcement personnel and is trying to

do something about their situation.

With kindest personal regards and personal best wishes.

Sincerely,

RUSSELL G. OSWALD, RUSSELL G. OSWALD, Commissioner.

CITY OF CINCINNATI,
DEPARTMENT OF SAFETY,
DIVISION OF POLICE,
Cincinnati, Ohio, February 1, 1972.

Hon. Edward M. Kennedy, U.S. Senate, Washington, D.C.

DEAR SENATOR KENNEDY: We reviewed with keen interest the Public Safety Officers Group Life Insurance proposal contained in Title II of Senate bills S. 2994

and S. 2995, ("Victims of Crime Act of 1972").

We are appreciative of your efforts expended on behalf of Public Safety Officers. Our Division has explored the area of adequate insurance in the recent past, and discovered that there is an apparent preference among members to handle insurance on an individual basis. Attempts at enrolling in group insurance programs have met with uniform failure of participation to the extent that would make the package attractive to insurance companies.

In response to the questions submitted in your memorandum we find: Many of our officers are not inordinately concerned about insurance.

They feel they are carrying the amount of insurance they can afford at present salaries.

We have had less than a 50% response to insurance plans made available at low cost.

No difficulty is encountered in obtaining adequate insurance nor are higher

rates required.

Present indications are that there is little interest in additional insurance unless it could be obtained at a law cost for the life of the officer without periodic in-

it could be obtained at a low cost, for the life of the officer without periodic increases in premiums so that when retirement age is reached continued coverage or conversion is within the limitations of a fixed retirement budget.

Sincerely,

CARL V. GOODIN, Police Chief.

CITY OF SEATTLE,
FIRE DEPARTMENT,
Seattle, Wash., January 11, 1972.

Hon. Edward M. Kennedy, U.S. Senator, Senate Office Building, Washington, D.C.

DEAR SENATOR KENNEDY: I am pleased to respond to the questions contained in

your letter of December 29, 1971 regarding S. 2995. I might add that I am also happy to learn that the proposed bill now includes coverage for the nation's fire fighters.

First, I will answer your questions:

1. "Do many of the public safety officers you know feel that they do not

have enough life insurance?"

Answer: The answer must be yes. Under coverage offered in the State of Washington, the dependents of a deceased fire fighter would receive one-half of his basic salary as a pension benefit. This is a rather drastic reduction in family income—especially if the mother is unable to supplement the amount. The firemen in some cities, however, have the option of purchasing supplemental group life insurance.

2. "Is your impression that many officers feel their salaries are too low to

afford enough life insurance, even if it is available at regular rates?"

Answer: This is true. It seems that most insurance offered to fire fighters—the nation's most hazardous occupation—if reasonably priced contains many unreasonable restrictions.

3. "Do you think they would want considerably more coverage if it were

available at lower cost?"

Answer: Yes-if the insurance provided good coverage without fine print

exclusions.

4. "Do you know if public safety officers sometimes have trouble buying adequate life insurance? For example, do they sometimes have to pay higher rates, do they encounter reluctance to issue life insurance at all, or do they find important extra benefits—such as double indemnity for accidental death and benefits for accidental loss of eye or limb—either unavailable or more expensive?"

Answer: Yes to all inquiries.

5. "Do you think most of the officers you know would be likely to want to participate in a nationwide, federally supported program of life, accidental death, and dismemberment insurance for public safety officers?"

Answer: Very definitely yes!

In addition, I am enclosing a copy of the letter which I forwarded to Senator McClellan as well as a number of enclosures that fairly well describe the pension and insurance coverage benefits available to the fire fighters of Seattle, Washington.

In closing, I wish to thank you for the opportunity to express myself in regard to this important legislation, and I sincerely thank you for your interest

in the nation's fire fighters.

Very truly yours,

GORDON F. VICKERY, Chief, Fire Department.

CITY AND COUNTY OF DENVER,

DEPARTMENT OF FIRE,

Denver, Colorado, January 4, 1972.

Hon, Edward M. Kennedy, U.S. Senate, Washington, D.C.

Dear Senator Kennedy: This office would be vitally interested in the promulgation of legislation to provide adequate life insurance protection to law enforce-

ment officers including the members of the fire service.

It is the opinion of the writer that a successful implementation of Title II would depend to a great extent upon a minimum federal participation of 33\% as proposed in S. 2995. Title III proposes to fill a very serious inadequacy in the protection of law enforcement officers and their families. However, the phrase "as a result of a criminal offense" may cause some question in the fire service when the probability of arson enters the picture and months may pass before a specific case can be established or the fire incident may be listed as "undetermined" indefinitely.

I am quite sure that the majority of law enforcement officers feel a need for greater insurance protection for the welfare of their families. Naturally, addi-

tional coverage at an attractive premium rate would be most welcome by a large number of this group. It has been a common situation over the years that men in these professions have been rated as special risks by the insurance industry both on straight life coverage and also on the double indemnity clause.

It would be ideal if local government whether it be state or city could be at least encouraged to engage in the financial participation of such a program in addition to the federal assistance. At the present time, neither the State of Colorado nor the City of Denver have inaugurated a program of insurance protec-

tion assistance for Denver Police or Firemen.

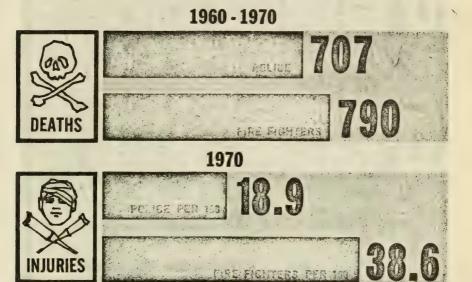
The membership of this Department is must appreciative for your sincere interest in a matter which we feel demands immediate attention and programing. Many thanks for your consideration.

Very truly yours,

MYRLE K. WISE, Chief, Denver Fire Department.

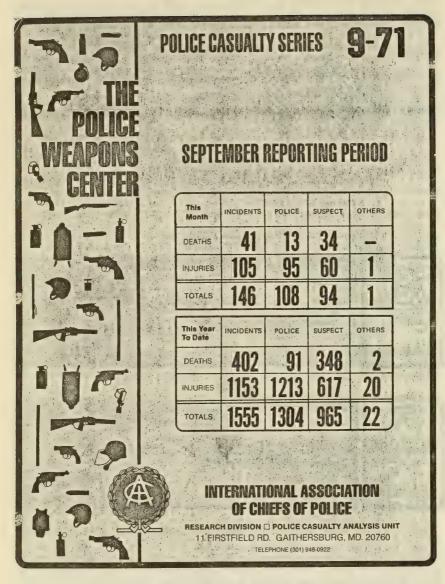
[Reprinted from International Fire Fighter, November 1971, p. 9]

DEATHS AND INJURIES POLICE AND FIRE FIGHTERS



Source: Uniform crime report—1970 issued by John Edgar Hoover, F.B.I. Fire Administration Records.

Death and injuries for both police and fire fighters have increased sharply during the past several years. The police deaths listed above are compiled from F.B.I. surveys covering approximately 200,000 police officers annually. The fire fighter deaths listed are compiled from surveys covering approximately 100,000 fire fighters. Police injuries were up from 16.9 in 1969 to 18.9 in 1970. Fire fighter injuries were up from 37 in 1969 to 38.6 in 1970.



CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION,
THE FIRST CHURCH OF CHRIST, SCIENTIST, IN BOSTON, MASS.,
Washington, D.C., March 13, 1972.

Hon. John L. McClellan, U.S. Senate, Washington, D.C.

DEAR SENATOR McClellan: This is in reference to your Victims of Crime Act of 1972 (S. 2994). Particularly the definition of pecuniary loss in section 450(10) which includes, in addition to medical expenses, "any other expenses actually and necessarily incurred as the result of personal injury."

Although this language may have the intent of covering Christian Science treatment, we can see how some administrators might question whether the cost of Christian Science treatment was necessary as the result of the personal

injury. So many people are unaware of the recognition given Christian Science treatment in Federal law that some difficulty in getting Christian Science cov-

erage is clearly foreseeable.

Therefore we request your Committee, if it favorably reports S. 2994 (or any similar bill), to include in the Committee Report a statement of legislative intent something like the following: "Expenses for health care by religious means would be an example of an expense reasonably and necessarily incurred by an injured victim of violent crime."

Among the precedents already established in law is a ruling by the Social Security Administration (SSR 67-61) that spells out the right of Christian Scientists to receive disability insurance while relying on Christian Science treatment. In this program the services of a Christian Science practitioner are covered in lieu of those of a medical doctor. Also, when necessary, the services of a Christian Science nurse and the cost of care in a Christian Science sanatorium are covered.

In addition to this program, Christian Science care and treatment are included as a benefit in the Medicare and Medicaid programs, the Federal Employees Health Benefits Program, and the Military Dependents Medicare Benefits Pro-

gram (CHAMPUS).

We are in sympathy with the purpose of this bill and hope that Christian Scientists, who rely upon spiritual means alone for healing, may be included. If we can supply further information to you or your Committee, we will be eager to do it.

Sincerely,

H. Dickinson Rathbun,
Manager.

AMERICAN INSTITUTE OF MARINE UNDERWRITERS, New York, N.Y., March 30, 1972.

Hon. John L. McClellan,

Chairman, Subcommittee on Criminal Laws and Procedures, Senate Committee on the Judiciary, Washington, D.C.

Dear Senator McClellan: Our Institute in behalf of its more than 100 Insurance Company Members strongly supports an amendment to Senate Bill 2994 incorporating the provisions of Senator Bible's S. 2426, which is under consideration by your Subcommittee. We are enclosing a copy of our letter to Senator Eastland on November 3, 1971 which sets forth our reasons for urging favorable consideration of such action. We would wish our position to be made part of the hearings which considered this amendment.

Sincerely yours,

JOHN C. HERMAN, Secretary.

AMERICAN TRUCKING ASSOCIATIONS, INC., Washington, D.C., March 10, 1972.

Hon. John L. McClellan,

Chairman, Subcommittee on Criminal Laws and Procedures, Senate Judiciary Committee, U.S. Senate, Washington, D.C.

DEAR Mr. CHAIRMAN: On December 17, 1971, I wrote you to record the support of the trucking industry for Senate Bill 2426, then before your Committee, which provides a right of civil action for a motor carrier to recover treble damages from thieves, fences, and buyers of property stolen from the carriers when in interstate commerce.

It is my understanding that Amendment 994, introduced by Senator Bible, March 3, 1972, proposes incorporation of the basic concepts of S.B. 2426 into Title IV of Senate Bill 2994, dealing with relief for victims of crime, which you introduced December 11, 1971.

My purpose in writing now is to urge your favorable consideration of that Amendment to your Bill 2994 in the further deliberations of your Committee.

Briefly, theft of cargo is one of the more serious problems in our industry today. The majority of goods stolen from us have to be converted into cash by the thieves, either through casual or professional fences, or directly to the ultimate buyer for his use or sale at retail.

We believe the existence of a treble damage liability will increase the risk to the fences and buyers enough to decrease the profits to thieves, fences and others in the chain of handling "hot" goods. Similarly, otherwise legitimate outlets who may have bought goods at less than fair market value from sources not known to them and who are not regular dealers in the commodities, could reasonably be expected to tighten up their buying practices in face of the financial cost of a

successful law suit as provided for here.

The burden of proof which must be sustained for conviction in criminal court is such as to foreclose prosecution in cases which could well be pursued to judgment in a civil action. One example of such a situation is Watkins Carolina Express, Inc. (plaintiff) vs. Robert Lee Rice, et. al., Civil Action Number 12352 in the U.S. District Court, Northern District of Georgia, Atlanta Division. In that case, a man who bought \$26,000 worth of wire for \$2,600 was not prosecuted criminally because a decision was made that it would be too difficult to prove that he knew the wire was stolen at the time he bought it. In the civil action, the jury awarded actual plus punitive damages to the plaintiff against two thieves, a fence and that buyer. Unfortunately, the Georgia law appears somewhat unique, and this is one of the prime reasons that federal legislation is needed.

Sections of Amendment 994 which provide the following for civil suits should materially help: (1) the waybill or other shipping document shall be prima facie evidence of the origin and destination of the shipment; (2) proof that a person is in unexplained possession of property recently stolen shall be prima facie evidence that he knew the property was stolen; and (3) proof that a person bought or received property for a consideration below fair market value

shall be prima facie evidence that he knew it was stolen.

We believe enactment of this legislation will complement existing criminal laws dealing with the same criminal acts. I again urge your favorable consideration.

Sincerely,

WILLIAM A. BRESNAHAN,

President.

THE LIBRARY OF CONGRESS, CONGRESSIONAL RESEARCH SERVICE, Washington, D.C., March 7, 1972.

To: Senate Subcommittee on Criminal Laws and Procedures, Attention: Mr. G. Robert Blakey.

From: American Law Division.

Subject: Knowledge requirement on the part of the receiver of stolen property under 18 U.S.C. 659.

This will refer to your request for a memorandum on the law relative to the captioned subject. We have prepared the attached memorandum from a study of the cases dealing with the receiver of stolen property only, in consonance with the apparent intent of your request. A separate memorandum is being prepared concerning the inferences which may be drawn from the possession of stolen property; therefore this work does not consider that point.

PAUL L. Morgan, Legislative Attorney.

Knowledge Requirement on the Part of the Receiver of Stolen Property Under 18 U.S.C. 659

Title 18 U.S.C. section 659, "Interstate or foreign baggage, express or freight; State prosecutions," generally provides penalties for any knowing possession of money, baggage, goods, or chattels illegally obtained from interstate or foreign commerce. It has been uniformly found, apparently based upon the obvious intent of the statute, that "knowledge" on the part of the receiver of the stolen property that it has been stolen is an essential element of he crime. See Pugliano v. U.S., 348 F. 2d. 902 (1st Cir. 1965); U.S. v. Sherman 171, F. 2d. 619 (2nd Cir. 1948); U.S. v. Allegrucci, 258 F. 2d 70, (3rd Cir. 1958); Torres v. U.S., 270 Fl 2d. 252, (4th Cir. 1959), cert. den. 362 U.S. 921 (1960); Yielding v. U.S., 173 F. 2d. 46 (5th Cir. 1949); Silverman v. U.S., 2 F. 2d. 716 (6th Cir. 1924); Cherry v. U.S. 78 F. 2d. 804 (7th Cir. 1935); Lonergan v. U.S. 287 F. 538 (8th Cir. 1928); Goldstein v. U.S., 73 F. 2d. 804 (9th Cir. 1934); Tingley v. U.S., 34 F. 2d. 1 (10th Cir. 1929), cert. den. 280 U.S. 508 (1929).

While the defendant must know that the goods were stolen, there appears to be

no requirement that he know the goods were stolen from interstate shipment. In U.S. v. Allegretti, 340 F. 2d. 243, rehearing 340 F. 2d. 254, (7th Cir. 1964), cert. den. 381 U.S. 911 (1965), the court approved the trial courts instruction which stated: "... The crime as alleged ... consists of possessing it knowing said goods to have been stolen, and you cannot find the defendant guilty ... unless you believe beyond a reasonable doubt that such defendants knew the goods were stolen, but it is not necessary to warrant a conviction ... that the defendants knew the goods were stolen from an interstate shipment of freight but it is sufficient guilty knowledge if he knows they were stolen, at 247"

The rationale behind the absence of a requirement of knowledge that the theft was from interstate commerce is suggested by Judge L. Hand in U.S. v. Crimmins, 123 F. 2d. 271 (2nd Cir. 1941). In determining that a conspirator need not know that stolen securities had been transported across state lines, he

said:

"Ordinarily one is not guilty of a crime unless he is aware of the existence of all those facts which make his conduct criminal. That awareness is all that is meant by means rea, the "criminal intent", necessary to guilt, as distinct from the additional specific intent required in certain instances (Reynolds v. United States, 98 U.S. 145, 167, 25 L. Ed. 244), and even this general intent is not always necessary. Sometimes, as for example in "felony murder," a man may be guilty who has no such awareness; the fact that one has engaged in a felony dispenses with the need of proving an intent to kill. Again, in "statutory rape" the accused need not know that the victim is below the age of consent; he takes his chances . . . in such cases the accused's conduct is independently immoral or unlawful, and that casts upon him the risk that that element of the crime of which he is ignorant may in fact exist. In many venial offenses also, such as breaches of municipal ordinances, one may be guilty who is ignorant of some of the operative facts. at 272-3."

Accord, Pugliano; Sherman; Allegrucci; Thomas v. U.S., 11 F. 2d 27 (4th Cir. 1926); U.S. v. McGann, 431 F. 2d 1104 (5th Cir. 1970); Grnadi v. U.S., 262 F. 123 (6th Cir. 1920); Robinson v. U.S., 333 F. 2d 323 (8th Cir. 1964); Goldstein.

Failure to make inquiry as to the source of the goods may or may not be to the detriment of the one charged with possession of the goods. In Silverman, the court disapproved a trial court charge that: ". . . with his eyes open to this suspicious circumstance demanding an inquiry, he failed to make any inquiry but doggedly went to work against the impulse of these circumstances and reduced these tires to his possession, he must take the conequence. at 716"

while the Court, in *U.S.* v. *Werner*, 160 F. 2d 438 (2nd Cir. 1947) stated: "The receivers of stolen goods almost never 'know' that they have been stolen, in the sense that they could testify to it in a court room . . . the fact that a reasonable man would have thought that they had been stolen, is some basis for finding that the accused actually did think so. But that the jury must find that the receiver did more than infer the theft from the circumstances has never been demanded so far as we know; and to demand more would emasculate the statute, for the evil against which it is directed is exactly that: i.e., making a market for stolen goods which the purchaser believes to have probably been stolen. *at* 441–442."

Proof of the receiver's knowledge that the goods have been stolen may be proven by circumstantial evidence. See: U.S. v. Danzo, 164 F. 2d 200 (2nd Cir. 1947); Chass v. U.S., 258 F. 911 (3rd Cir. 1919); Melson v. U.S., 207 F. 2d 558 (4th Cir. 1953); Kasle v. U.S., 233 F. 878 (6th Cir. 1916); U.S. v. Spatuzza, 331 F. 2d 214 (7th Cir. 1964), cert. den. 379 U.S. 829 (1964).

Jones, in his Commentaries on Evidence, (2nd ed.) section 27, Volume 1, states: "In proper strictness, as indicated above a 'presumption' is a mandatory deduction, while an 'inference' is a permissible deduction which the reason of the jury

makes without an express direction of law to the effect. at 54."

Without dwelling upon the inferences drawn from the possession of recently stolen goods, which is to be the subject of another memorandum, the following cases illustrate prosecutorial presentations to show knowledge on the part of the

receiver of stolen goods.

In *Melson*, the defendant had waived a jury trial below. Upon a review of the evidence that he had helped obliterate U.S. Army inspection markings on containers which held the stolen goods and had helped sell them at a bargain price, the Court said: "It is obvious that these circumstances, particularly the low price at which the eggs were sold by the defendant and his associate, and the obliteration of marks of ownership from the cartons, were such as to justify the inference that the defendant had knowledge that the goods had been stolen.

It is well settled that knowledge that goods have been stolen may be inferred from circumstances that would convince a man of ordinary intelligence that this is the fact $at\ 559$."

Accord: Werner; U.S. v. Wainer, 170 F. 2d 603 (7th Cir. 1948).

Apparently, the prosecution may introduce evidence of other acts of a similar nature to prove knowledge as in *Tingley*, a decision affirming a conviction below for knowingly receiving or possessing stolen merchandise, where the Court approved a lower court instruction which said: "It is fundamental in our law that a defendant is entitled to be tried strictly upon an indictment, definitely accusing him of one or more offenses, against which he may make his defense, and at a trial he cannot be convicted of any other offense. Yet other like transactions are competent evidence, and they are competent for you to consider in this case for the limited purposes, namely as tending to show the transactions charged in this case arose in this way, that a general plan was gotten up to engage in them, and the transactions in this case were instances of such plan, and as tending to show the defendant's guilty knowledge of the larcenies herein involved, and the intent to convert the merchandise to his use, when he bought and received it, if he did buy and receive it. For such limited purposes only, and not otherwise, you may consider the evidence relative to transactions prior in time to those charged in this case. *at* 2"

However, the introduction of such evidence of earlier transactions of an alleged illegal nature has been limited as in *U.S.* v. *Machen*, 430 F. 2d 523 (7th Cir. 1970) which reversed defendant's conviction for aiding, abetting, counseling, commanding, inducing and procuring possession of goods stolen from interstate commerce. In an earlier incident, defendant's truck had been found loaded with merchandise stolen from interstate commerce, but he apparently had not been convicted of the offense. In the instant case, defendant's truck was found in a warehouse with stolen merchandise and his driver was caught in the act of beginning to load the merchandise on the truck. In disapproving the introduction below of the prior incident, the Court said: "The evidence of a prior and allegedly similar offense is said to be probative both that the defendant knew that Dobbins and Bock were in possession of the pellets and that he knew that the pellets had been stolen. To put it otherwise, the evidence of the prior and allegedly similar offense is offered for the gross proposition that proof that one offense has been committed is proof that another later offense has been committed.

"Assuming that such a gross purpose may ever be thus served, strict standards must be met. These would include the requirements that the two incidents be intimately linked in time, nature, and method, and perhaps in place and in the identity of the participants. Also, proof that the defendant was guilty of the prior

crime would be required to be crisp, concise, and persuasive. at 526.'

Deviation from usual business practice, as in the case of *Henry v. U.S.*, 361 F. 2d. 352 (9th Cir. 1966), *cert. den.* 386 U.S. 957 (1967), may entitle the jury to infer that the defendant had the knowledge of the illegal source of goods in his possession. There it was shown that the defendant usually gave a bill of sale when selling merchandise, but had given none when he sold the material in question. He had usually asked for a bill of sale when purchasing merchandise, but had not in the case in question. Nor had he kept a record of any purchases or sales of the merchandise.

Other, less subtle, actions on the part of defendants have been offered by the prosecution to infer guilty knowledge, e.g., Le Fanti v. U.S. 259 F. 460 (3rd Cir. 1919) where the accused, when offered a stolen bale of silk, told the offeror to

drive to a dump and leave it among bushes and weeds.

LIBRARY OF CONGRESS, Washington, D.C., March 7, 1972.

To: Senate Subcommittee on Criminal Laws and Procedures. Attention: Prof. G. Robert Blakey.

From: American Law Division.

From: American Law Division.

Subject: Unexplained possession of recently stolen property.

The enclosed memorandum is in response to your request for a report on the doctrine of unexplained possession of recently stolen property in federal courts. In view of the fact that we were unable to locate any law review articles dealing specifically with this question the citations used in the memorandum are primarily federal court decisions. The law of presumptions is generally discussed in the following articles:

Ashford & Risinger, "Presumptions, Assumptions, and Due Process in Criminal Cases: "A Theoretical Overview" 79 Yale Law Journal 165 (1969).

Bohlen, "The Effect of Rebuttable Presumptions of Law Upon the Burden of Proof" 68 University of Pennsylvania Law Review" 307 (1920).

Brosman, "The Statutory Presumption" 5 Tulane Law Review 178 (1931).

Chirstie & Pye, "Presumptions and Assumptions in Criminal Law: Another View" 1970 Duke Law Journal 919.

Laughlin, "In Support of the Thayer Theory of Presumptions" 52 Michigan Law Review 195 (1953).

Keeton, "Statutory Presumptions-Their Constitutionality and Legal Effect" 10 Texas Law Review 34 (1931).

Morgan, "Some Observations Concerning Presumptions" 44 Harvard Law Review 906 (1931).

-, "Instruction the Jury Upon Presumptions and Burden of Proof" 47 Harvard Law Review 59 (1933).

-, "Presumptions" 12 Washington Law Review 255 (1937).

"Futher Observations on Presumptions" 16 Southern California Law Review 245 (1943).

-, "How to Approach Burden of Proof and Presumptions" 25 Rocky Mountain Law Review 34 (1955).

Reaugh, "Presumptions and the Burden of Proof" 36 Illinois Law Review 703, 819 (1942).

Note, "Due Process, Self-Incrimination, and Statutory Presumptions in the Wake of Leary and Turner' 61 Journal of Criminal Law, Criminology & Police Science 367 (1970).

-, "Constitutionality of Rebuttable Statutory Presumptions" 55 Columbia

Law Journal 527 (1955).

-, "Presumptions: Are They Evidence?" 26 California Law Review 519 (1938).

-, "Commonwealth v. Owens: Presumption That Unexplained Possession of Recently Stolen Goods Is Sufficient Evidence of Guilt Receiving Stolen Goods Held Unconstitutional" 75 Dickinson Law Review 544 (1971).

CHARLES DOYLE. Legislative Attorney.

RECENT POSSESSION OF STOLEN PROPERTY

At common law, one in possession of recently stolen goods who was unable to offer a reasonable explanation for his possession was "presumed" to be the thief. This "presumption" is still recognized by both state and federal courts. However, at early common law the offense of receiving stolen property did not exist. When the crime was created by statute, the presumption previously applied to possession of recently stolen property was expanded. Just before the turn of the century the Supreme Court declared: "Possession of the fruits of crime recently after its commission, justifies the inference that the possession is guilty possession, and, though only prima facie evidence of guilt, may be of controlling weight unless explained by the circumstances or accounted for in some way consistent with innocence. Wilson v. United States, 162 U.S. 613, 619 (1896)."

This statement of the law has been reaffirmed by the Supreme Court several times and accepted in all of the federal circuit courts of appeals.3 Under the

¹² Hale, History of the Pleas of the Crown 289 (1778 ed.).
21 Whoton's Criminal Evidence § 135 (1955) (1971 Supp.); 9 Wigmore on Evidence § 2513 (1940) (1970 Supp.); Lawson, Presumptive Evidence, 599-611 (1899); 50 American Jurisprudence, 2d "Larceny" §§ 160-63.
3 McNamara V. Henkel, 226 U.S. 520 (1913); Dunlop V. United States, 165 U.S. 486 (1897); Rugendorf V. United States, 376 U.S. 528 (1964); United States V. Browning, 439 F. 2d 813 (1st Cir. 1971); Freije V. United States, 386 F. 2d 408 (1st Cir. 1967); United States V. Coppola, 424 F. 2d 991 (2d Cir. 1970); United States V. Izzi, 427 F. 2d 293 (2d Cir. 1970); United States V. Pounds, 323 F. 2d 419 (3d Cir. 1963); United States V. Allegrucci, 258 F. 2d 70 (3d Cir. 1958); United States V. Ross, 424 F. 2d 1016 (4th Cir. 1970); United States V. Fisher, 440 F. 2d 654 (4th Cir. 1971); Hale V. United States, 410 F. 2d 147 (5th Cir. 1969); United States V. Gordon, 421 F. 2d 1068 (5th Cir. 1970); United States V. Stroble, 431 F. 2d 1273 (6th Cir. 1970); United States V. Prujansky, 415 F. 2d 1045 (6th Cir. 1969); United States V. Riso, 405 F. 2d 134 (7th Cir. 1968); United States V. Scoleri, 374 F. 2d 859 (7th Cir. 1967); Aron V. United States, 382 F. 2d 965 (8th Cir. 1967); Lee V. United States, 363 F. 2d 469 (8th Cir. 1966); United States, 386 F. 2d 35 (9th Cir. 1971); McAbee V. United States, 434 F. 2d 361 (9th Cir. 1970); Jenkins V. United States, 361 F. 2d 615 (10th Cir. 1966); Gregory V. United States, 364 F. 2d 210 (10th Cir. 1966); McKnight V. United States, 309 F. 2d 660 (D.C. Cir. 1962); Bray V. United States, 306 F. 2d 743 (D.C. Cir. 1961).

doctrine of recent possession, the federal courts have recognized three separate inferences—the inference that the possessor is the thief; that he knows that the property is stolen; 5 and where property stolen in one state is found in the possession of the defendant in another that he transported the property interstate knowing it to have been stolen.6

The doctrine may not be applied unless there is exclusive possession in the defendant. However, both constructive and joint possession are sufficient. Ordinarily, the question of whether possession in a particular case is "recent" is one of facts to be determined by the jury taking into consideration all the circumstances of the case including the kind, value, volume of the goods, and the ease or difficulty with which they may be assimilating into legitimate trade.10 The inference weakens as the time of the theft becomes more remote 11 until a point at which the court must hold that as a matter of law possession is no longer "recent." 12

Although the doctrine only purports to cover those cases where possession is unexplained, the jury may be warranted in finding guilty knowledge unless the defendant's explanation is straightforward, truthful, reasonable and satisfac-

⁴ United States v. Prujansky, 415 F. 2d 1045 (6th Cir. 1969); McAbee v. United States, 434 F. 2d 361 (9th Cir. 1970); United States v. Coppola, 424 F. 2d 991 (2d Cir. 1970); Glavin v. United States, 396 F. 2d 725 (9th Cir. 1968); Real v. United States, 326 F. 2d 441 (10th Cir. 1963); Travers v. United States, 335 F. 2d 698 (D.C. Cir. 1964); Manning v. United States, 215 F. 2d 845 (10th Cir. 1954); Morandy v. United States, 170 F. 2d 5 (9th Cir. 1948); Drew v. United States, 27 F. 2d 715 (2d Cir. 1928).

⁵ United States v. Thomson, 422 F. 2d 1104 (6th Cir. 1970); United States v. McGlamory, 441 F. 2d 130 (5th Cir. 1971); United States v. Mathews, 429 F. 2d 497 (9th Cir. 1970); United States v. Wolfenbarger, 426 F. 2d 992 (6th Cir. 1970); United States v. Brady, 425 F. 2d 309 (8th Cir. 1970); United States v. Browning, 439 F. 2d 813 (1st Cir. 1971); United States v. Abigando, 439 F. 2d 827 (5th Cir. 1971); United States v. Julian, 440 F. 2d 779 (9th Cir. 1971); Corey v. United States, 305 F. 2d 233 (9th Cir. 1962); Travers v. United States, 335 F. 2d 698 (D.C. Cir. 1964); United States v. Sherman, 171 F. 2d 619 (2d Cir. 1948).

2d 779 (9th Cir. 1971); Corey v. United States, 305 F. 2d 255 (9th Cir. 1902), Interest. United States, 335 F. 2d 698 (D.C. Cir. 1964); United States v. Sherman, 171 F. 2d 619 (2d Cir. 1948).

**Ounited States v. Coppola, 424 F. 2d 991 (2d Cir. 1970); Husten v. United States, 95 F. 2d 168 (8th Cir. 1938); United States v. Thompson, 422 F. 2d 1104 (6th Cir. 1970); United States v. Abigando, 439 F. 2d 827 (5th Cir. 1971); Kramer v. United States, 408 F. 2d 837 (8th Cir. 1969); Sewell v. United States, 406 F. 2d 1289 (8th Cir. 1969); Asley v. United States, 413 F. 2d 249 (5th Cir. 1969); United States v. Rawls, 421 F. 2d 1285 (5th Cir. 1970); Corey v. United States, 305 F. 2d 233 (9th Cir. 1962); Lee v. United States, 363 F. 2d 469 (8th Cir. 1966); Beufve v. United States, 374 F. 2d 123 (5th Cir. 1967); Allison v. United States, 348 F. 2d 152 (10th Cir. 1965); Williams v. United States, 371 F. 2d 141 (10th Cir. 1965); Maguire v. United States, 358 F. 2d 442 (10th Cir. 1966); Reese v. United States, 341 F. 2d 90 (10th Cir. 1965); McIntosh v. United States, 341 F. 2d 90 (10th Cir. 1965); McIntosh v. United States, 341 F. 2d 488 (8th Cir. 1965); Bown v. United States, 386 F. 2d 477 (10th Cir. 1967); Battaglia v. United States, 205 F. 2d 824 (4th Cir. 1953); Grover v. United States, 183 F. 2d 650 (9th Cir. 1950); Carinegella v. United States, 36 F. 2d 563 (7th Cir. 1985); Barfield v. United States, 205 F. 2d 936 (5th Cir. 1969); Kramer v. United States, 408 F. 2d 837 (8th Cir. 1969); Barnes v. United States, 341 F. 2d 189 (5th Cir. 1965); Barfield (6th Cir. 1951); Carinegella v. United States, 78 F. 2d 563 (7th Cir. 1965); Jenkins v. United States v. 229 F. 2d 936 (5th Cir. 1966); Pearson v. United States, v. De Sisto, 329 F. 2d 929 (2d Cir. 1964); United States v. Borda, 285 F. 2d 405 (4th Cir. 1961); Bookh v. United States v. Redd, 438 F. 2d 335 (9th Cir. 1971); Hale v. United States, 410 F. 2d 545 (2d Cir. 1921).

**United States v. Redd, 438 F. 2d 335 (9th Cir. 1971); Hale v. United States, 410 F. 2d 147 (5th Cir.

United States, 333 F. 2d 033 (B.C. Cir. 1977) 10 United States v. Prujansky, 415 F. 2d 1045 (6th Cir. 1969); Aron v. United States, 382 F. 2d 965 (8th Cir. 1967); United States v. Gordon, 421 F. 2d 1068 (5th Cir. 1970); Jenkins v. United States, 361 F. 2d 615 (10th Cir. 1966); Teel v. United States, 407 F. 2d

³⁸² F. 2d 99 (8th Cir. 1967); Ontied States, 361 F. 2d 615 (10th Cir. 1966); Teel v. United States, 407 F. 2d 604 (8th Cir. 1969).

"United States v. Redd, 438 F. 2d 335 (9th Cir. 1971); Hale v. United States, 410 F. 2d 147 (5th Cir. 1969); United States v. Wolfenbarger, 426 F. 2d 992 (6th Cir. 1970); United States v. Licausi, 413 F. 2d 1118 (5th Cir. 1969); United States v. Teresa, 420 F. 2d 13 (4th Cir. 1969); Wangrow v. United States, 399 F. 2d 106 (8th Cir. 1968); Travers v. United States, 335 F. 2d 698 (D.C. Cir. 1964); Christensen v. United States, 259 F. 2d 192 (D.C. Cir. 1958); Morandy v. United States, 170 F. 2d 5 (9th Cir. 1948); Boehm v. United States, 271 F. 454 (2d Cir. 1921).

"2 Van Gorder v. United States, 21 F. 2d 939 (8th Cir. 1927); Balman v. United States, 94 F. 2d 197 (8th Cir. 1938); Gargotta v. United States, 77 F. 2d 977 (8th Cir. 1935).

"Aron v. United States, 382 F. 2d 965 (8th Cir. 1967); United States v. Pounds, 323 F. 2d 419 (3d Cir. 1963); United States v. McGlamory, 441 F. 2d 130 (5th Cir. 1971); United States v. Jones, 434 F. 2d 232 (5th Cir. 1970); United States v. Reed, 414 F. 2d 435 (5th Cir. 1969); Moody v. United States, 377 F. 2d 175 (5th Cir. 1967); Beufve v. United States, 374 F. 2d 123 (5th Cir. 1967); Boom v. United States v. McNeil, 255 F. 2d 387 (2d Cir. 1958); Seefeldt v. United States, 183 F. 2d 713 (10th Cir. 1950); Loftus v. United States, 46 F. 2d 841 (7th Cir. 1931).

Historically, the status of the "presumption" raised by recent unexplained possession of stolen property is less clear: "It has long been customary in England to use the language of presumptions for such a situation; but the opinions (as reported) seldom made clear whether the language was intended merely to mean that the specific fact alone was sufficient evidence on which the jury might reach a conviction if they desired (ante, § 2494), or whether it meant that the specific fact alone created a presumption, i.e. placed on the accused a duty of producing evidence, so that if he failed to do so (that is, to offer any "explanation") the jury must convict (ante. § 2490). This obscurity continued in many of the judicial rulings of the United States. But the general trend is to repudiate any rule of presumption in the strict sense." 9 Wigmore on Evidence § 2513 (1940).

Although some of the earlier cases speak in terms of "presumptions of fact" 14 it is clear that in federal courts unexplained possession of recently stolen property merely creates an inference which the jury may draw; 15 that any standard more demanding raises serious constitutional problems; 16 but that a mere permissible inference is not inconsistent with the defendant's immunity from self-incrimination, does not shift the burden of proof to the defendant, and is consistent with Tot v. United States, 319 U.S. 463 (1943); Bollenbach v. United States, 326 U.S. 607 (1946); United States v. Romano, 382 U.S. 136 (1965); Turner v. United States, 396 U.S. 398 (1970; United States v. Gainey 380 U.S.

63 (1965); and Leary v. United States, 395 U.S. 6 (1969).17

In this last connection, Professor Christie and Dean Pye recently noted:

"One of the few almost universally recognized presumptions in the state courts is the jury instruction that, in a prosecution for the knowing possession of stolen goods, knowledge that the goods are stolen may be inferred from the unexplained possession of recently stolen goods. Typically, this so-called presumption is not the result of any legislative action but merely the result of a state supreme court's approval of a jury instruction to this effect or affirmance of a conviction in which the only evidence of knowledge was the unexplained possession of recently stolen goods. The only important issue involved here is whether a sufficient rational connection exists between the unexplained possession of such stolen goods. For, whether or not the jury is instructed on the point, it is very likely to make this inference even if no specific reference is made to a presumption. Accordingly, even if all "presumptions" were struck down-a position that Justice Black advocated in Turner-because they place the burden of coming. forward on the defendant and because they deny the defendant the right to have the evidence on which he may be convicted presented to the jury, the defendant is still confronted with the same dilemma. If the jury is likely to convict him on the basis of the evidence of recent possession that has been presented by the prosecution, he will have to come forward with evidence, regardless of his constitutional right to remain silent. The situation is not like that in a narcotics prosecution where the jury is told, from unexplained possession it may infer that the narcotics were distributed in a package not bearing tax stamps or were illegally

¹⁴ Boehm v. United States, 271 F. 2d 454 (2d Clr. 1921); Sorenson v. United States, 168 F. 785 (8th Cir. 1909); Drew v. United States, 27 F. 2d 715 (2d Cir. 1928).

15 Aron v. United States, 382 F. 2d 965 (8th Cir. 1967); McAbe v. United States, 434 F. 2d 361 (9th Clr. 1970); Sewell v. United States, 406 F. 2d 1289 (8th Cir. 1969); Glavin v. United States, 396 F. 2d 725 (9th Cir. 1968); Harding v. United States, 337 F. 2d 254 (8th Cir. 1964); Lee v. United States, 363 F. 2d 469 (8th Cir. 1966); United States, 337 F. 2d 254 (8th Cir. 1964); Lee v. United States, 363 F. 2d 469 (8th Cir. 1966); United States v. Tremont, 351 F. 2d 144 (6th Cir. 1965); McKnight v. United States, 309 F. 2d 660 (D.C. Cir. 1962); United States v. Allegrucci, 258 F. 2d 50 (3d Cir. 1958); Barfield v. United States, 229 F. 2d 936 (5th Cir. 1956); United States, 244 F. 2d 310 (2d Cir. 1960); Battaglia v. United States, 205 F. 2d 824 (4th Cir. 1953); Morandy v. United States, 170 F. 2d 5 (9th Cir. 1948); Brubaker v. United States, 183 F. 2d 894 (6th Cir. 1950).

16 Bollenbach v. United States, 326 U.S. 607 (1946); Battaglia v. United States, 205 F. 2d 824 (4th Cir. 1953); United States, 245 F. 2d 310 (2d Cir. 1960); United States v. Allegrucci, 258 F. 2d 70 (3d Cir. 1958); Kasle v. United States, 233 F. 2d 878 (6th Cir. 1916); Degnan v. United States, 271 F. 291 (2d Cir. 1921); Balman v. United States, 94 F. 2d 197 (8th Cir. 1938). (In Commonwealth v. Owens, — Pa. —, 271 A. 2d 230 (1970) the Supreme court of Pennsylvania held application of the doctrine unconstitutional in light of Leary and Turner but seemed to Ignore the distinction between a presumption of law which a jury must honor and a permissible inference.)

17 United States v. Prajansky, 415 F. 2d 1045 (6th Cir. 1969); United States v. Redd, 438 F. 2d 335 (9th Cir. 1971); United States v. Coppola, 244 F. 2d 991 (2d Cir. 1970); Lee v. United States, 363 F. 2d 469 (8th Cir. 1964); McAbee v. United States, 434 F. 2d 361 (9th Cir. 1969); Dunson v. United States, 404 F 2d 447 (9th Cir.

imported—something that would not ordinarily occur to the jury." Christie & Pye, "Presumptions and Assumptions in the Criminal Law: Another View" 1970

Duke Law Journal 919, 925-26.

Turner, Gaines, Leary, et al. articulating a due process requirement that there be a rational connection between the fact proven and the fact to be presumed or inferred are unlikely to affect the law involving the doctrine of unexplained recent possession of stolen property since that doctrine is based solely on the rational connection between the two and since it gives rise merely to a permissible inference which the jury is free to draw or reject.

WEST PALM BEACH, FLA., January 5, 1972.

Hon. John L. McClellan, Senate Office Bldg., Washington, D.C.

DEAR SIR: A former neighbor has sent me a clipping describing the bill you propose to aid innocent victims of violence and their families. I thought that you might be interested in hearing what happened to my husband and what it has

meant to me and what a life-saver such help would have been.

As you will see from the enclosed clipping, my husband worked for the Spanish Embassy and was attacked by two teen age boys on his way home from the Safeway, almost at his own front gate. This was on October 15 at about eight at night on a street having the new intensive lighting, a policeman at Hines School, and many people around. The doctors say he was struck by an iron pipe. On October 27 after every possible measure to save him had been taken, he died suddenly of a blood clot. Had he lived, they tell me he would have been partly paralyzed and his brain damaged. He was a man in perfect health and ought to

have lived for many more years.

Because he was so healthy and I was the one who was not we planned our future on the basis that he would outlast me. His job was such that he could continue it as long as he wished (he edited the Spanish News Letter). We had raised six children which meant that there had been little chance to save, and lived abroad a good deal so that we had never been able to buy a home here until six years ago when we returned permanently. We saved for two years all that I earned by working in an editorial capacity for the American Association of Retired Persons, and at that time bought a small house on Tenth Street, S.E. With some more saving and a small bequest a year ago we bought a second, much larger and pleasanter house at 704 N. Carolina Ave., S.E. where we were living at the time of the attack.

The only way we could see for two people our age to make their future somewhat secure was to invest in these two houses since property on the Hill can be counted to rise steadily in value. We gambled on having five years to pay off the improvements we had borrowed money to make at the new house, and worked hard fixing it up, my husband doing much of the less skilled work himself, as he had in the first house. With a small pension he had from the State Department, \$126 a month, and the rent on the other house and an efficiency in the basement, we would have had that security, if it had not been for his murder. Instead, we had only a year and a half. Because he worked for an Embassy my husband had to pay his own insurance—\$4,000. They gave me one extra pay check beyond what he had earned by all of his department doing his work for one month. If it had not been for that kind act, the paycheck he received for October, would have been the last.

My husband's pension was cut in half upon his death. I have yet to receive a single check from Social Security. The balance of the doctors' bills not covered by Medicare and Blue Shield keep coming in along with the obligations we assumed, on the assumption my husband's fine health assured him many more years of earning power. To say nothing of funeral expenses. Even the Bureau of Internal Revenue pursued me, though they turned out to be unexpectedly kind

and human and things were straightened out quite easily.

Because I could not begin to meet the payments on the North Carolina house out of what I would have, I had to sell it. This included all the furnishings as well. At present I am living with a daughter in Florida, but expect to return to D.C. in April, My roots are there. All my friends. My church—Christ Church on

G Street, S.E. Where I am going to live I do not know. Probably in the basement efficiency of the Tenth Street house although it is not among most of my friends who are located in the North Carolina and Seventh Street area.

The point is, if there had been any kind of cash settlement and help for me in those early days, maybe I could have saved my real home, still been among dear friends who would have helped me to adjust. Instead I am among strangers,

except for an unmarried daughter.

My husband and I were married for forty-six years. We both worked hard, lived through the depression, raised six children, and did our best to be worthy citizens of a country we both loved. It is not fair that my husband has been so brutally murdred, and even less so that the small security we had every right to look forward to and had sacrificed to try to obtain should have been shattered by that blow. The two murderers are still at large although a lot of people were willing to be involved. There seems to have been considerabe ack of efficiency in the police department. After all, my husband was not particularly important, except to me. But to me he was my whole world. I never expect to go to the moon, nor did he, but it would have seemed reasonable to have expected to go in safety to and from the Safeway.

Good luck with your bill,

JESSICA LEE.

[From the Washington (D.C.) Evening Star, Oct. 28, 1971]

AIDE AT EMBASSY DIES 13 DAYS AFTER BEATING

(By Timothy Hutchens, Star Staff Writer)

John P. Lee, 67, an assistant in the information office of the Spanish Embassy, died in Sibley Hospital yesterday, 13 days after two youths beat him during an attempted robbery near his Capitol Hill home.

After doing some shopping in the Safeway opposite the Eastern Market on 7th St., he was walking around the corner to his home at 704 N. Carolina Ave. when two youths attacked him beneath one of the area's high intensity lights at about 8:30 p.m.

"He didn't have any money with him because he paid by check," his wife,

Jessica, said.

The attack took place about 100 feet from the Lees' door. A taxi driver saw one of the youths swing a bat or a stick at Lee, who fell to the ground and later said that he never saw his assailants.

The cabbie drove onto the sidewalk to scare the boys away. They ran, and some policeman near Pennsylvania Avenue gave chase. Mrs. Lee remembered that a boy was caught in the chase, but she said that the police had to turn him loose because all that the cabbie could say was that one of the attackers was wearing a white

Lee picked himself up and despite severe head injuries, made it home. But at 10:15 p.m., his wife took him to the hospital. An autopsy was scheduled for today. Presumably, he will be listed as the District's 21st murder victim of the year once the autopsy is completed.

"We felt very safe because there are lights," Mrs. Lee said, They had lived in the house for a year and a half and previously lived farther south and east on

Capitol Hill, at 519 10th St. SE.

A week before the assault, Mrs. Lee said, "we were in Europe on vacation where we walked the streets of Vienna and Frankfurt in safety at all times."

Lee had worked for the Spanish Embassy for eight years. Previously, he was with the U.S. Information Service in Brazil and Embasco International (Electric Bond and Share Company).

He was brought up in South America and Central America, and spoke Spanish and Portuguese. Along the way, he picked up magic as a hobby and was vice president of the Society of American Magicians.

He was born in Manila. His father was supervisor of schools in the Philippines and worked for the State Department, retiring as consul general in Brazil.

Lee had six children. Funeral services will be at 11 a.m. Saturday at Christ Church 620 G St. SE.

"I don't feel any bitterness," Mrs. Lee said. "But I hope the police catch those boys before they kill somebody else.



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§ 13960

GOVERNMENT CODE

ARTICLE 1. VICTIMS OF CRIME [NEW]

Sec.

13960. Declaration of purpose.

13961. Victim of crime defined.

Filing of claim; forms; time of presenting claim. 13962.

13963. Hearing; notice; report of attorney general; approval of claim; amount; attorney's fees; subrogation; intervention by state.

Fine imposed in addition to penalty for conviction of crime of violence; 13964. determination by court.

13965. Law enforcement agency; duty to inform persons eligible to file claim.

13966. Payment of claims.

Heading of Article 1 added by Stats. 1969, c. 1111, p. 2167, § 2; Stats. 1969, c. 1431, p. 2936, § 2.

Claims by victims, see 2 Cal.Adm.Code 648 et seq.

Law Review Commentaries

Aid to victims of violent crimes in Cali-brnia. Willard Shank (1970) 43 So.Cal.L.R.

Remedies for the victims of crime. Le-Roy L. Lamborn (1970) 43 So.Cal.L.R. 22.

§ 13960. Declaration of purpose

The Legislature hereby declares that it serves a public purpose, and is of benefit to the state, to indemnify those needy residents of the State of California who are victims of crimes committed in the State of California, and those needy domiciliaries of California who are injured as a consequence of an act committed while temporarily in another state or jurisdiction where such act, if committed in California, would have been a public offense, for the injuries suffered as a result of the commission of the crimes.

(Added Stats. 1967, c. 1546, p. 3707, § 1.)

Law Review Commentaries
Aid to victims of criminal violence (1965)

18 Stan.L.R. 266.
Prospectus for research on victim-compensation in California. Gilbert Geis (1966)

Perisation Cambridae, Gribert Gets (1969) 55 Victim compensation plans. (1969) 55 A.B.A.J. 159.

1. In general Where it w Where it was not shown that any employees of restaurant-bar knew that robber of coffee shop was waiting outside nor that establishment was a "tough joint" patron, who after employee allegedly asked him to obtain license number, went into parking lot and spoke to person, the robber, and was shot by him was not, as a matter of law, contributorly negligent and did not assume the risk but was precluded from recovery on ground that restaurant-bar could not be found to have anticipated that robber would not immediately flee or probability of injury resulting therefrom. Young v. Desert View Management Corp., (1969) 79 Cal.Rptr. 848, 275 A.C.A. 332.

. 13961. Victim of crime defined

A victim of a crime as used in this chapter is any person who sustains injury to himself, or pecuniary loss as a result of physical injury or death of another person on whom he is financially dependent, and which is the consequence of an act considered to be a public offense, as defined by Penal Code Section 15, whether the actor is criminally liable or not.

(Added Stats.1967, c. 1546, p. 3707, § 1.)

§ 13962. Filing of claim; forms; time of presenting claim

(a) The victim of a crime of violence, his family, or any persons dependent upon the victim for their support may file a claim with the State Board of Control, provided that the crime was committed in California and the applicant was a resident of California, or provided the claimant is a domiciliary of California who was injured while temporarily in another state or jurisdiction.

(b) The State Board of Control shall provide indemnification claim forms for purposes of this section and shall specify the information to be included in such forms.

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(c) The claim must be presented by the claimant to the Board of Control within a period of one year after the date of death or injury and no claim not so presented shall be considered by the Board of Control.

(Added Stats.1967, c. 1546, p. 3707, § 1.)

Contents of claims, see 2 Cal.Adm.Code
648.1.
Form of claims set out, see 2 Cal.Adm.
Code 648.2.
Aid to victims of criminal violence (1965)
18 Stan.L.R. 266.

Time of presenting claims, see 2 Cal. Adm. Code 648.

§§ 13963. Hearing; notice; report of attorney general; approval of claim; amount; attorney's fees; subrogation; intervention by state

Upon presentation of any such claim, the Board of Control shall fix a time and place for the hearing of the claim, and shall mail notices thereof to interested persons or agencies and to the Attorney General. Prior to the hearing, the Attorney General shall investigate the facts of each claim, including the claimant's financial condition, filed pursuant to this chapter, and prepare a report thereof. The Attorney General shall at the hearing submit to the board, and the board shall receive the report, together with any evidence which he may have obtained as a result of his investigation. At the hearing, the board shall receive evidence showing

- (a) The nature of the crime committed and the circumstances involved;
- (b) That as a direct consequence, the victim incurred personal injury;
- (c) The extent of such injury;
- (d) The need of the claimant;
- (e) Such other evidence as the board may require.

If the board determines, on the basis of a preponderance of such evidence, that the state should indemnify the claimant for the injury sustained, it shall approve the claim for payment. The board shall determine that the state should indemnify a person who files a claim pursuant to this chapter if there is need for such indemnification, except that such a claim may be denied if the claimant has not cooperated with the police in the apprehension and conviction of the criminal committing the crime.

The maximum amount for which the board may approve a claim pursuant to this section shall not exceed the amount necessary to indemnify or reimburse the claimant for necessary expenses incurred for hospitalization or medical treatment, loss of wages, loss of support, or other necessary expenses directly related to the injury. If continued hospitalization or medical treatment is necessary, a partial award may be made and the claim subsequently reconsidered for the purpose of recommending an additional award.

In addition the board may award, as attorney's fees, an amount representing the reasonable value of legal services rendered a claimant, but in no event to exceed 10 percent of the amount of the award.

A claim shall be reduced to the extent that the claimant has received indemnification from any other source. If a claim is paid under this chapter the state shall be subrogated to the rights of the claimant to whom such claim was paid against any person causing the damage or injury for which payment was made to the extent of the payment of the claim. The state may recover the amount of the claim paid in a separate action, or may intervene in an action brought by the claimant. In no event shall a claim be approved pursuant to this section in excess of five thousand dollars (\$5,000).

(Added Stats.1967, c. 1546, p. 3707, § 1.)

Claim as basis for award, see 2 Cal.Adm. Code 648.4. Determination of need, see 2 Cal.Adm.

Code 648.5.
Disallowance of claims, see 2 Cal.Adm.
Code 648.3.

Law Review Commentaries
Aid to victims of violent crimes in California. Willard Shank (1970) 43 So.Cal,L.R.
85

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§ 13964. Fine imposed in addition to penalty for conviction of crime of violence; determination by court

Upon conviction of a person of a crime of violence committed in the State of California resulting in the injury or death of another person who was a resident of the State of California at the time the crime was committed, the court shall take into consideration the defendant's economic condition, and unless it finds such action will cause the family of the defendant to be dependent on public welfare, may, in addition to any other penalty, order the defendant to pay a fine commensurate in amount with the offense committed. The fine shall be deposited in the Indemnity Fund in the State Treasury, which is hereby continued in existence, and the proceeds in such fund shall be available for appropriation by the Legislature to indemnify persons filing claims pursuant to this chapter.

(Added Stats. 1967, c. 1546, p. 3707, § 1.)

Library references

Fines. 6-1½, 20. C.J.S. Fines \$\$ 1 et seq., 19.

§ 13965. Law enforcement agency; duty to inform persons eligible to file claim

- (a) The * * * law enforcement agency investigating a crime shall provide forms to each person * * * who may be eligible to file a claim pursuant to this chapter * * *. The * * * law enforcement agency shall obtain from the board any forms which may be necessary in the preparation and presentation of such claims.
- (b) If a victim of a crime does not cooperate with a state or local law enforcement agency in the apprehension and conviction of the criminal committing the crime, the agency shall immediately notify the board of such lack of cooperation. (Added Stats.1967, c. 1546, p. 3707, § 1. Amended by Stats.1970, c. 389, p. —, § 1.)

§ 13966. Payment of claims

Claims under this chapter shall be paid from a separate appropriation made to the State Board of Control in the Budget Act and as such claims are approved by the board.

(Added Stats.1967, c. 1546, p. 3707, § 1.)

ARTICLE 2. CITIZENS BENEFITING THE PUBLIC [NEW]

13970. Direct action of citizens as benefiting public; indemnification in certain cases.

13971. Private citizen defined.

13972. Claim for indemnification; filing; contents.

13973. Hearing; notice; evidence.

13974. Rules and regulations.

Article 2 added by Stats. 1969, c. 1111, p. 2168, § 3.5; Stats. 1969, c. 1431, p. 2938, § 3.5.

§ 13970. Direct action of citizens as benefiting public; Indemnification in certain

Direct action on the part of private citizens in preventing the commission of crimes against the person or property of others, or in apprehending criminals, or rescuing a person in immediate danger of injury or death as a result of fire, drowning, or other catastrophe, benefits the entire public. In recognition of the public purpose served, the state may indemnify such citizens, their widows, and their surviving children in appropriate cases for any injury, death, or damage sustained by such citizens, their widows or their surviving children as a direct consequence

Underline indicates changes or additions by amendment

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of such meritorious action to the extent that they are not compensated for the injury, death, or damage from any other source. (Added by Stats.1969, c. 1111, p. 2168; § 3.5; Stats.1969, c. 1431, p. 2938, § 3.5.)

(Added by Stats.1969, c. 1111, p. 2168, § Section 5 of Stats.1969, c. 1111, p. 2170, provided: "It is the intent of the Legislature, if the additions of Article 2 (commencing with Section 13970) to Chapter 5 of Part 4 of Division 3 of the Government Code proposed by both this bill and S.B. 108 [Stats.1969, c. 1431, p. 2936] are enacted, that both additions be given effect and incorporated in Article 2 in the form set forth in Section 3.5 of this act. Therefore, in the event S.B. 108 is enacted and adds Article 2, Section 3.5 of this act shall become operative at the same time that Article 2 as added by S.B. 108 becomes operative, and at that time, Article 2 (commencing with Section 13970) of Chapter 5 of Part 4 of Division 3 of the Government Code as added by Section 3 of this act is repealed." pealed.

seation 5 of Stats.1969, c. 1431, p. 2939, provided: "It is the intent of the Legislature, if the additions of Article 2 (commencing with Section 13970) to Chapter 5 of Part 4 of Division 3 of the Government Code proposed by both this bill, and S.B. 368 [Stats.1969, c. 1111, p. 2166] are enacted that both additions be given effect and incorporated in Article 2 in the form set forth in Section 3.5 of this act. Therefore, in the event S.B. 368 is enacted and adds. Article 2, Section 3.5 of this act shall become operative at the same time that Article 2 as added by S.B. 368 becomes operative, and at that time, Article 2 (commencing with Section 13970) of Chap-

ter 5 of Part 4 of Division 3 of the Government Code as added by Section 3 of this act is repealed."

Derivation: Penal Code former section 13600, added by Stats. 1965, c. 1395, p. 3315, \$ 1.

Law Review Commentaries

Aid to victims of criminal violence (1965)
18 Stan.L.R. 266.
Background and general effect of 1965 addition of Pen.C. former § 13600. Rev. of 1965 Code Leg. (Cont.Educ. of Bar, 1965)

page 201. Library references States ©⇒123. C.J.S. States § 156.

C.J.S. States § 156.

1. In general
Where it was not shown that any employees of restaurant-bar knew that robber of coffee shop was waiting outside nor that establishment was a "tough joint," patron, who after employee allegedly asked him to obtain license number, went into parking lot and spoke to person, the robber, and was shot by him was not, as a matter of law, contributorily negligent and did not assume the risk but was precluded from recovery on ground that restaurant-bar could not be found to have anticipated that robber would not immediately flee or probability of injury resulting therefrom. Young v. Desert View Management Corp. (1969) 79 Cal. Rptr. 848, 275 A.C.A. 332.

§ 13971. Private citizen defined

As used in this article, "private citizen" means any natural person other than a peace officer, fireman, lifeguard, or person whose employment includes the duty to protect the public safety acting within the course and scope of such employment. (Added by Stats.1969, c. 1111, p. 2168, § 3.5; Stats.1969, c. 1431, p. 2938, § 3.5.)

Amendment of this section by Stats.1969, c. 1111 p. 2167, § 3. and Stats.1969, c. 1431, p. 2936, § 3, failed to become operative, See note under section 13970.

Derivation: Penal Code former section 13600.5, added by Stats.1965, c. 1395, p. 3315, § 1.

THE REPORT OF STREET

Library references Words and Phrases (Perm.Ed.)

§ 13972. Claim for indemnification; filing; contents

In the event a private citizen incurs personal injury or death or damage to his property in preventing the commission of a crime against the person or property of another, in apprehending a criminal, or in materially assisting a peace officer in preventing of a crime or apprehension of a criminal, or rescuing a person in immediate danger of injury or death as a result of fire, drowning, or other catastrophe, the private citizen, his widow, his surviving children, or a public safety agency acting on his or their behalf may file a claim with the State Board of Control for indemnification to the extent that the claimant is not compensated from any other source for such injury, death, or damage. The claim shall generally show:

- (a) The date, place and other circumstances of the occurrence or events which gave rise to the claim;
- (b) A general description of the activities of the private citizen in prevention of a crime, apprehension of a criminal, or rescuing a person in immediate danger of injury or death as a result of fire, drowning, or other catastrophe;
- (c) The amount or estimated amount of the injury, death, or damage sustained for which the claimant is not compensated from any other source, insofar as it may be known at the time of the presentation of the claim;
 - (d) Such other information as the Board of Control may require.

Asterisks * * * Indicate deletions by amendment

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The claim shall be accompanied by a corroborating statement and recommendation from the appropriate state or local law enforcement agency. (Added by Stats.1969, c. 1111, p. 2168, § 3.5; Stats.1969, c. 1431, p. 2938, § 3.5.)

Amendment of this section by Stats.1969, c. 1111, p. 2167, § 3, and Stats.1969, c. 1431, p. 2936, § 3, failed to become operative. See note under section 13970.

Derivation: Penal Code former section 13601, added by Stats.1965, c. 1395, p. 3315,

Library references
States \$\infty 123, 169 et seq.
C.J.S. States \\$\frac{1}{3}\$ 156, 199 et seq.

1. In general
State by providing procedure for indemnification of private citizens for damages susfleation of private citizens for damages sustained in preventing commission of crime did not assume liability for indemnification of injuries and did no more than create procedure for recelpt and evaluation of indemnity claims by board of control before board presents recommendation that appropriation be made by legislature. Worthington v. State Bd. of Control (1968) 72 Cal.Rptr. 449, 266 A.C.A. 761.

§ 13973. Hearing; notice; evidence

Upon presentation of any such claim, the Board of Control shall fix a time and place for the hearing of the claim, and shall mail notices thereof to interested persons or agencies and to the Attorney General. At the hearing, the board shall receive recommendations from the Attorney General and law enforcement agencies, and evidence showing:

- (a) The nature of the crime committed by the apprehended criminal or prevented by the action of the private citizen, or the nature of the action of the private citizen in rescuing a person in immediate danger of injury or death as a result of fire, drowning, or other catastrophe, and the circumstances involved;
- (b) That the actions of the private citizen substantially and materially contributed to the apprehension of a criminal, the prevention of a crime, or the rescuing of a person in immediate danger of injury or death as a result of fire, drowning, or other catastrophe;
- (c) That as a direct consequence, the private citizen incurred personal injury or damage to property or died;
- (d) The extent of such injury or damage for which the claimant is not compensated from any other source;
 - (e) Such other evidence as the board may require.

If the board determines, on the basis of such evidence, that the state should indemnify the claimant for the injury, death, or damage sustained, it shall submit a report of the facts and its conclusion to the Legislature, and a recommendation that an appropriation be made by the Legislature for the purposes of indemnifying the claimant. In no event shall a claim be approved by the board under this article in excess of five thousand dollars (\$5,000).

(Added by Stats.1969, c. 1111, p. 2168, § 3.5; Stats.1969, c. 1431, p. 2938, § 3.5.)

Amendment of this section by Stats.1969, c. 1111, p. 2167, § 3, and Stats.1969, c. 1431, p. 2936, § 3, failed to become operative. See note under section 13970.

Derivation: Penal Code former section 13602, added by Stats.1965, c. 1395, p. 3316,

5 1.

1. In general Under Pen.C. former § 13600 et seq. (re-pealed. See, now, Gov.C. § 13970 et seq.)

providing procedure for indemnification of private citizens for damages sustained in preventing commission of crime, court may not make direct award of money damages or specify kind of recommendation board of control shall render to legislature regarding amount of indemnification. Worthington v. State Bd. of Control (1968) 72 Cal.Rptr. 449, 266 A.C.A. 761.

§ 13974. Rules and regulations

The Board of Control is hereby authorized to make all needful rules and regulations consistent with the law for the purpose of carrying into effect the provisions of this act.

(Added by Stats.1969, c. 1111, p. 2168, § 3.5; Stats.1969, c. 1431, p. 2938, § 3.5.)

Amendment of this section by Stats.1969, 1111, p. 2167, § 3, failed to become opera-ive. See note under section 13970. Derivation: Penal Code former section tive. Derivation: Penal Code former section 13603, added by Stats.1965, c. 1395, p. 3316,

who sustained damages as result of his atwho sustained damages as result of his attempt to prevent commission of crime, until citizen signed general release was without authority, and release was ineffective. Worthington v. State Bd. of Control (1968) 72 Cal.Rptr. 449, 266 A.C.A. 761.

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in general Holding of sum appropriated by legisla-ture for indemnification of private citizen,

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CRIMINAL INJURIES COMPENSATION

CHAPTER 351 CRIMINAL INJURIES COMPENSATION

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PART I. INTRODUCTORY

§351-1 Purpose. The purpose of this chapter is to aid victims of criminal acts, by providing compensation for victims of certain crimes or dependents of deceased victims, and for indemnification of private citizens for personal injury or property damage suffered in prevention of crime or apprehension of a criminal. [L 1967, c 226, pt of §1]

§351-2 Definitions. As used in this chapter, unless the context otherwise requires:

"Child" means an unmarried person who is under twenty years of age and includes a stepchild or an adopted child;

"Commission" means the criminal injuries compensation commis-

sion established by this chapter;

"Dependents" mean such relatives of a deceased victim who were wholly or partially dependent upon his income at the time of his death or would have been so dependent but for the incapacity due to the injury from which the death resulted and includes the child of the victim born after his death;

"Injury" means actual bodily harm and, in respect of a victim, includes pregnancy and mental or nervous shock; and "Injured" has a corresponding meaning;

"Private citizen" means any natural person other than a peace

officer of the State;

"Relative" means a victim's spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, sister, half brother, half sis-

ter, or spouse's parents:

"Victim" means a person who is injured or killed by any act or omission of any other person coming within the criminal jurisdiction of the State which is within the description of any of the crimes specified in section 351-32 of this chapter. [L 1967, c 226, pt of \$1]

PART II. ESTABLISHMENT OF COMMISSION

§351-11 Criminal injuries compensation commission. There shall be a criminal injuries compensation commission which shall be composed of three members to be appointed and be removable in the manner prescribed by section 26-34. One member of the commission shall be an attorney who has been admitted to practice before the supreme court of the State for at least five years. No officer or employee of the State or any political subdivision thereof shall be eligible for appointment to the commission. The commission is placed within the department of social services for administrative purposes. [L 1967, c 226, pt of §1]

CRIMINAL INJURIES COMPENSATION

INSATION Sec. 351-13

Cross References

Boards and commissions generally, see §26-34 and notes following.

§351-12 Tenure and compensation of members. The term of office of each member of the criminal injuries compensation commission shall be four years or until his successor is appointed except that (1) the terms of office of the members first taking office shall expire as designated by the governor at the time of the appointment, one on December 31, 1968, one on December 31, 1969, and one on December 31, 1970; and (2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of the term. Each member of the commission shall be eligible for reappointment, subject to section 26-34. A vacancy in the commission shall not affect its powers. If any member of the commission is unable to act because of absence, illness, or other sufficient cause, the governor may make a temporary appointment, and such appointee shall have all the powers and duties of a regular member of the commission for the period of his appointment.

Each member of the commission except the chairman shall be compensated at the rate of \$50 per day for each day's actual attendance to his duties, provided such compensation shall not exceed a maximum of \$6,600 per year. The chairman shall be compensated at the rate of \$55 per day for each day's actual attendance to his duties, provided such compensation shall not exceed a maximum of \$7,200 per year. The members of the commission shall be paid their necessary travelling and subsistence expenses incurred in the discharge of their duties. [L 1967, c 226, pt of \$1]

§351-13 Powers and procedures of commission. Upon an application made to the criminal injuries compensation commission under this chapter, the commission shall fix a time and place for a hearing on such application and shall cause notice thereof to be given to the applicant. The commission may hold such hearings, sit and act at such times and places, and take such testimony as the commission may deem advisable. The chairman and one other member of the commission shall constitute a quorum; and where opinion is divided and only one other member is present, the opinion of the chairman shall prevail. Any member of the commission may administer oaths or affirmations to witnesses appearing before the commission. The commission shall have such powers of subpoena and compulsion of attendance of witnesses and production of documents and of examination of witnesses as are conferred upon a circuit court. Subpoenas shall be issued under the signature of the chairman. The circuit court of any circuit in which a subpoena is issued or served or in which the attendance or production is required may, upon the application of the commission, enforce the attendance and testimony of any witness and the production of any document so subpoenaed. Subpoena and witness fees and mileage shall be the same as in criminal cases in the circuit courts, and shall be payable from funds appropriated for expenses of administration. [L 1967, c 226, pt of §1]

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§351-14 Hearings and evidence. Where any application is made to the criminal injuries compensation commission under this chapter, the applicant and the commission's legal adviser shall be entitled to appear and be heard. Any other person may appear and be heard who satisfied the commission that he has a substantial interest in the proceedings. In any case in which the person entitled to make an application is a child, the application may be made on his behalf by any person acting as his parent or guardian. In any case in which the person entitled to make an application is mentally defective, the application may be made on his behalf by his guardian or such other individual authorized to administer his estate.

Where under this chapter any person is entitled to appear and be heard by the commission, that person may appear in person or by his attorney. All hearings shall be open to the public unless in a particular case the commission determines that the hearing, or a portion thereof, should be held in private, having regard to the fact that the offender has not been convicted or to the interest of the victim of an alleged sexual offense.

Every person appearing under this section shall have the right to produce evidence and to cross-examine witnesses. The commission may receive in evidence any statement, document, information, or matter that may in the opinion of the commission contribute to its functions under this chapter, whether or not such statement, document, information, or matter would be admissible in a court of law.

If any person has been convicted of any offense with respect to an act or omission on which a claim under this chapter is based, proof of that conviction shall, unless an appeal against the conviction or a petition for a rehearing in respect of the charge is pending or a new trial or rehearing has been ordered, be taken as conclusive evidence that the offense has been committed. [L 1967, c 226, pt of §1]

- §351-15 Medical examination. The criminal injuries compensation commission may appoint an impartial licensed physician to examine any person making application under this chapter, and the fees for the examination shall be paid from funds appropriated for expenses of administration. [L 1967, c 226, pt of §1]
- §351-16 Attorneys' fees. The criminal injuries compensation commission may, as a part of any order entered under this chapter, determine and allow reasonable attorneys' fees, which if the award of compensation is more than \$1,000 shall not exceed fifteen per cent of the award, to be paid out of but not in addition to the award, to the actorneys representing the applicant, provided that the amount of the attorneys' fees shall not, in any event, exceed the award of compensation remaining after deducting that portion thereof for expenses actually incurred by the claimant.

Any attorney who charges, demands, receives, or collects for services rendered in connection with any proceedings under this chapter any amount in excess of that allowed under this section, if any compensation is paid, shall be fined not more than \$2,000. [L 1967, c 226,

pt of §1]

§351-17 Judicial review. Any person aggrieved by a final order or decision of the criminal injuries compensation commission on the sole ground that the order or decision was in excess of the commission's authority or jurisdiction, shall have a right of appeal to the Supreme Court, provided the appeal is filed within thirty days after service of a certified copy of the order or decision. Except as provided in the preceding sentence, orders and decisions of the commission shall be conclusive and not subject to judicial review. [L 1967, c 226, pt of §1]

PART III. COMPENSATION TO VICTIMS OR DEPENDENTS

§351-31 Eligibility for compensation. (a) In the event any person is injured or killed by any act or omission of any other person coming within the criminal jurisdiction of the State after June 6, 1967, which act or omission is within the description of the crimes enumerated in section 351-32, the criminal injuries compensation commission may, in its discretion, upon an application, order the payment of compensation in accordance with this chapter:

(1) To or for the benefit of the victim; or

(2) To any person responsible for the maintenance of the victim, where that person has suffered pecuniary loss or incurred expenses as a result of the victim's injury; or

(3) In the case of the death of the victim, to or for the benefit of any one or more of the dependents of the deceased victim.

(b) For the purposes of this chapter, a person shall be deemed to have intentionally committed an act or omission notwithstanding that by reason of age, insanity, drunkenness, or otherwise he was legally

incapable of forming a criminal intent.

- (c) In determining whether to make an order under this section, the commission may consider any circumstances it determines to be relevant, and the commission shall consider the behavior of the victim, and whether, because of provocation or otherwise, the victim bears any share of responsibility for the crime that caused his injury or death and the commission shall reduce the amount of compensation in accordance with its assessment of the degree of such responsibility attributable to the victim.
- (d) An order may be made under this section whether or not any person is prosecuted for or convicted of a crime arising out of an act or omission described in subsection (a), provided an arrest has been made or such act or omission has been reported to the police without undue delay. No order may be made under this section unless the commission finds that:

(1) The act or omission did occur; and

(2) The injury or death of the victim resulted from the act or omission. Upon application from the prosecuting attorney of the appropriate county, the commission may suspend proceedings under this chapter for such period as it deems desirable on the ground that a prosecution for a crime arising out of the act or omission has been commenced or is imminent. [L 1967, c 226, pt of §1]

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§351-32 Violent crimes. The crimes to which part III of this chapter applies are the following enumerated offenses and all other offenses in which any enumerated offense is necessarily included:

(1) Arson-Sec. 723-2;

(2) Intermediate Assault or Battery - Sec. 724-5;

(3) Aggravated Assault or Battery-Sec. 724-3 or any other aggravated assault offense enacted by law;

(4) Use of dangerous substances – Sec. 724-4;

(5) Murder - Sec. 748-1;

(6) Manslaughter - Sec. 748-6;

(7) Kidnapping - Sec. 749-1;

(8) Child-stealing-Sec. 749-4;

- (9) Unlawful use of explosives—Sec. 753-3;
- (10) Sexual intercourse with a female under sixteen Sec. 768-21;

(11) Assault with intent to rape or ravish—Sec. 768-26;

(12) Indecent Assault - Sec. 768-31;

(13) Carnal abuse of female under twelve—Sec. 768-36;

(14) Rape - Sec. 768-61;

- (15) Attempted Rape Secs. 702-1, 768-61. [L 1967, c 226, pt of \$11
- §351-33 Award of compensation. The criminal injuries compensation commission may order the payment of compensation under this part for:

(1) Expenses actually and reasonably incurred as a result of the injury or death of the victim;

(2) Loss to the victim of earning power as a result of total or partial incapacity;

(3) Pecuniary loss to the dependents of the deceased victim;

(4) Pain and suffering to the victim; and

- (5) Any other pecuniary loss directly resulting from the injury or death of the victim which the commission determines to be reasonable and proper. [L 1967, c 226, pt of §1]
- §351-34 Relationship to offender. No compensation shall be awarded, except for expenses specified in section 351-33(1), if the victim:

(1) Is a relative of the offender; or

- (2) Was at the time of his injury or death living with the offender as spouse or as a member of the offender's household. [L 1967, c 226, pt of §11
- §351-35 Recovery from offender. Whenever any person is convicted of an offense that includes any crime enumerated in section 351-32 and an order or the payment of compensation is or has been made under this part for injury or death resulting from the act or omission constituting such offense, the criminal injuries compensation commission may institute a derivative action against the person and against any person liable at law on his behalf, in the name of the victim or such of his dependents as have been awarded compensation under this part in the circuit court or the circuit in which any such person resides or is found, for such damages as may be recoverable at common law by the victim or such dependents without reference to the payment of

compensation under this part. The court shall have jurisdiction to hear, determine, and render judgment in any such action. The time from the occurrence of the act or omission until conviction of the offense and. thereafter, as long as the offender is in confinement for conviction of the offense, shall not constitute any part of the time limited for the commencement of the action by the commission under the applicable statute of limitations. Any recovery in the action shall belong to the State, provided that the commission shall amend its order of compensation to provide for the payment of any portion of the recovery in excess of the amount of compensation prescribed in the order to any of the persons entitled to receive compensation under section 351-31 in such proportions and upon such terms as the commission shall deem appropriate. If the legislature fails to appropriate funds to pay all or any part of the award of payment made by the commission and there is a recovery of the money from the offender, the commission shall pay all of such recovery to the claimant or such portion thereof, to the claimant as to the commission appears just and equitable, but in no case shall any claimant be given an award in excess of both the recovery and the award. [L 1967, c 226, pt of §1]

PART IV. COMPENSATION TO PRIVATE CITIZENS

§351-51 Eligibility for compensation. In the event a private citizen incurs injury or property damage in preventing the commission of a crime within the State, in apprehending a person who has committed a crime within the State, or in materially assisting a peace officer who is engaged in the prevention or attempted prevention of such a crime or the apprehension or attempted apprehension of such a person, the criminal injuries compensation commission may, in its discretion, upon an application, order the payment of compensation in accordance with this chapter:

(1) To or for the benefit of the private citizen; or

- (2) To any person responsible for the maintenance of the private citizen, where that person has suffered pecuniary loss or incurred expenses as a result of the private citizen's injury. [L 1967, c 226, pt of §1]
- §351-52 Award of compensation. The criminal injuries compensation commission may order the payment of compensation under this part for:

(1) Expenses actually and reasonably incurred as a result of the injury of the private citizen;

(2) Pain and suffering to the private citizen;

(3) Loss to the private citizen of earning power as a result of total or partial incapacity; and

(4) Pecuniary loss to the private citizen directly resulting from damage to his property. [L 1967, c 226, pt of §1]

PART V. GENERAL PROVISIONS

§351-61 Terms of order. Except as otherwise provided in this chapter, any order for the payment of compensation under this chapter

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may be made on such terms as the criminal injuries compensation commission deems appropriate. Without limiting the generality of the preceding sentence, the order may provide for apportionment of the compensation, for the holding of the compensation or any part thereof in trust, and for the payment of the compensation in a lump sum or periodic installments. All such orders shall contain words clearly informing the claimant that all awards and orders for payments under this chapter are subject to the making of an appropriation by the legislature to pay the claim. [L 1967, c 226, pt of §1]

§351-62 Limitations upon award of compensation. (a) No order for the payment of compensation shall be made under this chapter unless the application has been made within eighteen months after the date of injury, death, or property damage.

(b) No compensation shall be awarded under this chapter in an

amount in excess of \$10,000. [L 1967, c 226, pt of §1]

§351-63 Recovery from collateral source. (a) The criminal injuries compensation commission shall deduct from any compensation awarded under this chapter any payments received from the offender or from any person on behalf of the offender, or from the United States, a state, or any of its subdivisions, or any agency of any of the foregoing, for injury or death compensable under this chapter.

(b) Where compensation is awarded under this chapter and the person receiving same also receives any sum required to be, and that has not been deducted under subsection (a), he shall refund to the State the lesser of the sum or the amount of the compensation paid to

him under this chapter. [L 1967, c 226, pt of §1]

- §351-64 No double recovery. Application may be made by any eligible person for compensation under both parts III and IV of this chapter, but no order shall have the effect of compensating any person more than once for any loss, expense, or other matter compensable under this chapter. [L 1967, c 226, pt of §1]
- §351-65 Legal adviser. The attorney general shall serve as legal adviser to the criminal injuries compensation commission. [L 1967, c 226, pt of §1]
- §351-66 Exemption from execution. No compensation payable under this chapter shall, prior to actual receipt thereof by the person or beneficiary entitled thereto, or their legal representatives, be assignable or subject to execution, garnishment, attachment, or other process whatsoever, including process to satisfy an order or judgment for support or alimony. [L 1967, c 226, pt of §1]
- § 351-67 Survival and abatement. The rights to compensation created by this chapter are personal and shall not survive the death of the person or beneficiary entitled thereto, provided that if such death occurs after an application for compensation has been filed with the criminal injuries compensation commission, the proceeding shall not

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abate, but may be continued by the legal representative of the decedent's estate. [L 1967, c 226, pt of §1]

§351-68 Rule-making powers. In the performance of its functions, the criminal injuries compensation commission may adopt, amend, and repeal rules and regulations, not inconsistent with this chapter, prescribing the procedures to be followed in the filing of applications and the proceedings under this chapter and such other matters as the commission deems appropriate. [L 1967, c 226, pt of §1]

Cross References

Rulemaking, see chapter 91.

- §351-69 Commission staff. Supervisory, administrative, and clerical personnel necessary for the efficient functioning of the criminal injuries compensation commission shall be appointed as provided in section 26-35. [L 1967, c 226, pt of §1]
- §351-70 Annual report. The criminal injuries compensation commission shall transmit annually to the governor and to the director of finance, at least thirty days prior to the convening of the legislature a report of its activities under this chapter including the name of each applicant, a brief description of the facts in each case, and the amount, if any, of compensation awarded. The director of finance shall, within five days after the opening of the legislative session, transmit the report, together with a tabulation of the total amount of compensation awarded, to the Committee on Ways and Means of the Senate and the Committee on Appropriations of the House of Representatives (or any successor committee). The funds necessary to pay the compensation awarded shall be appropriated in the same manner as payment of other claims for legislative relief sought pursuant to section 37-6. Compliance with this section shall be deemed compliance with section 37-6. [L 1967, c 226, pt of §1]

DEPARTMENT OF SOCIAL SERVICES State of Hawaii

CRIMINAL INJURIES COMPENSATION COMMISSION

RULE 13. RULES OF PRACTICE AND PROCEDURE

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DEPARTMENT OF SOCIAL SERVICES State of Hawaii

CRIMINAL INJURIES COMPENSATION COMMISSION

RULE 13. RULES OF PRACTICE AND PROCEDURE

These rules are made pursuant to the Criminal Injuries Compensation Act and the Hawaii Administrative Procedure Act.

Part I. General Applicability

Section 1. General Provisions.

1.1. Definitions.

- a. As used in the rules and regulations prescribed by the Commission, unless the context requires otherwise:
 - Commission. The term "Commission" means the Criminal Injuries Compensation Commission.
 - Chairman. The term "Chairman" means the Chairman of the Criminal Injuries Compensation Commission.
 - 3) Executive Secretary. The term "Executive Secretary" means the Executive Secretary of the Criminal Injuries Compensation Commission.
 - 4) Party. The term "party" shall mean each person or agency entitled to appear and be heard and any other person who satisfies the Commission that he has a substantial interest in the proceedings.
 - 5) Proceedings. The term "proceedings" shall mean the Commission's elucidation of the relevant facts and applicable law, consideration thereof, and action thereupon with respect to a particular subject within the Commission's jurisdiction, initiated by a filing or submittal or request or a Commission's notice or order. It shall include proceedings involving the adoption, amendment or repeal of any rule or regulation of the Commission, whether initiated by Commission order or notice or by petition of an interested person.
 - 6) Presiding officer. The term "presiding officer" with respect to proceedings means the Chairman or such other persons authorized by law to conduct hearings.

1.2. The Commission.

- a. Office. The principal office of the Commission is at the Liliuokalani Building, Honolulu, Hawaii. All communications to the Commission shall be addressed to the Criminal Injuries Compensation Commission, State of Hawaii, P. O. Box 339, Honolulu, Hawaii, unless otherwise specifically directed.
- b. <u>Hours</u>. The offices of the Commission shall be open from 7:45 a.m. to 4:30 p.m. of each day of the week except Saturday and Sundays and holidays unless otherwise provided by statute or executive order.
- c. Sessions. The Commission meets and exercises its powers in any part of the State of Hawaii. All meetings of the Commission shall be open to the public, except that 1) the Commission may determine that a private meeting is necessary in particular cases involving pending criminal actions or the interests of the victim and 2) the Commission may meet in executive session, from which the public may be excluded, by a recorded number of votes of the members of the Commission necessary to validate acts as provided in subsection (d) hereinafter. No order, regulation, ruling, contract, appointment or decision shall be finally acted upon at such private meeting or executive session.
- d. Quorum and number of votes necessary to validate acts. The Chairman and one other member of the Commission shall constitute a quorum to transact business, and the concurrence of a simple majority of the members of the Commission shall be necessary to make any action of the Commission valid; provided, that where opinion is divided and only one other member is present, the opinion of the Chairman shall prevail.

Section 2. Public Records.

- 2.1. The term "public records" as used in this part is defined as in Section 7A-1(b), Revised Laws of Hawaii 1955 (1965 Supplement) and shall include all rules, regulations, written statements of policy or interpretation formulated, adopted or used by the Commission, all final opinions and orders, the minutes of meetings of the Commission and any other material required by law to be kept on file in the office of the Commission unless accorded confidential treatment pursuant to statute or the rules or order of the Commission.
- 2.2. All public records that are available for inspection may be inspected during established office hours unless public inspection of such records is in violation of any state or federal law; provided, that, except where such records are open under any rule of court, the

attorney general may determine which records may be withheld from public inspection when such records pertain to the preparation of the prosecution or defense of any action or proceeding to which the State is or may be a party, or when such records are deemed necessary for the protection of the character or reputation of any person.

- 2.3. Copies of public records. Public records printed or reproduced by the Commission shall be given to any person requesting the same and paying the fees established by the Commission or by law.
- 2.4. Requests for public information, for permission to inspect official records or for copies of public records will be handled with due regard for the dispatch of other public duties.

Section 3. Rules Applicable to Rulemaking Proceedings.

- 3.1. Notice of proposed rulemaking.
 - a. When upon its own motion, the Commission proposes to issue, amend or repeal a rule or regulation, a notice of proposed rulemaking will be published at least once in a newspaper of general circulation in the State. All such notices shall be issued at least twenty days prior to the date of hearing.
 - b. A notice of the proposed issuance, amendment or repeal of a rule or regulation will include:
 - A statement of the date, time and place where the public hearing shall be held;
 - Reference to the authority under which the issuance, amendment, or repeal of a rule or regulation is proposed;
 - A statement of the substance of the proposed rulemaking.
 - Docket number specifically assigned to the rulemaking hearing.
- 3.2. <u>Further notice of rulemaking</u>. In any rulemaking proceeding where the Commission deems it warranted, a further notice of proposed rulemaking will be issued by publication thereof in a newspaper of general circulation in the State.
- 3.3. Conduct of hearing.
 - a. <u>Public hearing</u>. A public hearing shall be held as provided by law.

- b. Presiding officer. Each such hearing shall be presided over by the Chairman of the Commission or by a designated representative. The hearing shall be conducted in such a way as to afford to interested persons a reasonable opportunity to be heard on matters relevant to the issues involved and so as to obtain a clear and orderly record.
- c. Continuance of hearing. Each such hearing shall be held at the time and place set in the notice of hearing, but may at such time and place be continued from day to day or adjourn to a later date or to a different place without notice other than the announcement thereof at the hearing.
- d. Order of proceeding. At the commencement of the hearing, the presiding officer shall read the pertinent portions of the notice of hearing and shall then outline briefly the procedure to be followed. Evidence shall then be received with respect to the matters specified in the notice of hearing in such order as the presiding officer shall prescribe.
- Submission of evidence. All interested persons shall be given reasonable opportunity to offer evidence with respect to the matters specified in the notice of hearing. Every witness shall, before proceeding to testify, state his name, address, and whom he represents at the hearing, and shall give such other information respecting his appearance as the presiding officer may request. The presiding officer shall confine the evidence to the questions before the hearing but shall not apply the technical rules of evidence. Every witness shall be subject to questioning by the presiding officer or by any other representative of the Commission, but cross-examination by private persons shall not be permitted except if the presiding officer expressly permits it.
- Oral and written presentation at such hearing. interested persons or agencies of the State or political subdivision of the State will be afforded an opportunity to submit data, views or arguments which are relevant to the issues. In addition, or in lieu thereof, persons or agencies may also file with the Commission within fifteen days following the close of public hearing a written protest or other comments or recommendations in support of or in opposition to the proposed rulemaking. Written protest, comments or recommendations or replies thereto will not be accepted unless an original and ten (10) copies are filed. The period for filing written protest, comments or recommendations may be extended by the presiding officer for good cause.

- g. Transcript of the evidence. Unless otherwise specifically ordered by the Commission or the presiding officer, testimony given at the hearing need not be reported verbatim. All supporting written statements, maps, charts, tabulations or similar data offered in evidence at the hearing, and which are deemed by the presiding officer to be authentic and relevant, shall be received in evidence and made a part of the record. Unless the presiding officer finds that the furnishing of the required number of copies impracticable and reduces the number, ten (10) copies of the exhibits shall be submitted.
- 3.4. Commission action. At the close of the final public hearing, the Commission shall announce the decision or the date when its decision will be announced.
- 3.5. Emergency rulemaking. Notwithstanding the foregoing rules, if the Commission finds that an imminent peril to public health, safety, or morals requires adoption, amendment or repeal of a rule or regulation upon less than twenty days' notice of hearing, and states in writing its reason for such finding, it may proceed without prior notice or hearing or upon such abbreviated notice and hearing as it finds practicable to adopt an emergency rule or regulation to be effective for a period not longer than 120 days without renewal.
- 3.6. Petitions for adoption, amendment or repeal of rules.
 - a. <u>Scope</u>. Any interested person or any agency of the State or county government may petition the Commission for the issuance, amendment, modification or repeal of any rule or regulation.
 - b. Form and contents. Petitions for rulemaking shall set forth the text of any proposed rule or amendment desired or specifying the rule the repeal of which is desired and stating concisely the nature of his interest in the subject matter and his reasons for seeking the issuance, amendment or repeal of the rule and shall include any facts, views, arguments and data deemed relevant by petitioner. The Commission may require the petitioner to serve persons or governmental agencies known to be interested in the proposed rulemaking. No request for the issuance, amendment, modification or repeal of a rule which does not conform to the requirements set forth above will be considered by the Commission.
 - c. <u>Procedure</u>. Petitions for rulemaking will become matters of public record upon filing. The Commission shall within thirty days following the filing of the petition either deny the petition in

writing or initiate public rulemaking procedures. No public hearing, oral argument, or other form of proceedings need be held directly on any such proceeding, but if the Commission determines that the petition discloses sufficient reasons in support of the relief requested to justify the · institution of public rulemaking proceedings, the procedures to be followed will be as set forth in this section. Where the Commission determines that the petition does not disclose sufficient reasons to justify the institution of public rulemaking procedures, or where the petition for rulemaking fails in material respect to comply with the requirements of these rules, petitioner will be so notified together with the grounds for such denial. The provisions of this section shall not operate to prevent the Commission, on its own motion, from acting on any matter disclosed in any petition.

Section 4. Special Proceedings.

4.1. Petition for declaratory rulings.

- a. Form and Contents. On petition of an interested person, the Commission may issue a declaratory order as to the applicability of any statutory provision or of any rule or regulation or order of the Commission. Petitions for the issuance thereof shall state clearly and concisely the controversy or uncertainty, shall cite the statutory authority involved, shall include a complete statement of the facts and the reasons or grounds prompting the petition, together with full disclosure of petitioner's interest.
- b. Additional data and supporting authorities. The Commission, upon receipt of the petition, may require the petitioner to file additional data or a memorandum of legal authorities in support of the position taken by the petitioner.
- c. <u>Dismissal</u>. The Commission may, without notice or hearing, dismiss a petition for declaratory ruling which fails in material respect to comply with the requirements of this part.
- d. Request for hearing. Although in the usual course of disposition of a petition for a declaratory ruling no formal hearing need be granted to the petitioner or to a party in interest, the Commission may in its discretion order such proceeding set down for hearing. Any petitioner or party in interest, who desires a hearing on a petition for declaratory ruling shall set forth in detail in his request the reasons why the

matters alleged in the petition, together with supporting affidavits or other written evidence and briefs or memoranda of legal authorities will not permit the fair and expeditious disposition of the petition, and, to the extent that such request for hearing is dependent upon factual assertion, shall accompany such request by affidavit establishing such facts. In the event a hearing is ordered by the Commission, Section 9-13 of the Hawaii Administrative Procedure Act shall govern the proceedings.

e. <u>Declaratory ruling on Commission's own motion</u>. Notwithstanding the other provisions of this sub-part, the Commission may, on its own motion or upon request but without notice or hearing, issue a declaratory order to terminate a controversy or to remove uncertainty.

Part II. Implementing Act 226, Session Laws of Hawaii 1967

Section 1. <u>Definitions</u>. "'Child' means an unmarried person who is under twenty years of age and includes a step-child or an adopted child;

'Commission' means the criminal injuries compensation commission;

'Dependents' mean such relatives of a deceased victim who were wholly or partially dependent upon his income at the time of his death or would have been so dependent but of the incapacity due to the injury from which the death resulted and shall include the child of such victim born after his death;

'Injury' means actual bodily harm and, in respect to a victim, includes pregnancy and mental or nervous shock; and 'Injured' has a corresponding meaning;

'Private citizen' means any natural person other than a peace officer of the State;

'Relative' means a victim's spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, sister, half brother, half sister, or spouse's parents;

'Victim' means a person who is injured or killed by any act or omission of any other person coming within the criminal jurisdiction of the State which is within the description of any of the crimes specified in these rules."

- Section 2. Compensation. Act 226, Session Laws of Hawaii 1967, provides for the payment of compensation, not in excess of \$10,000, to victims of the hereinafter enumerated crimes or dependents of deceased victims, and for indemnification of private citizens for personal injury or property damage suffered in prevention of crime or apprehension of a criminal.
- Section 3. Applicable Crimes. The crimes to which compensation may be applicable are the following enumerated offenses and all other offenses in which any enumerated offense is necessarily included:
 - (1) Arson Sec. 263-2;
 - (2) Intermediate Assault or Battery -Sec. 264-5;
 - (3) Aggravated Assault or Battery Sec. 264-3 or any other aggravated assault offense enacted by law;
 - (4) Use of dangerous substances Sec. 264-4;
 - (5) Murder Sec. 291-7;
 - (6) Manslaughter Sec. 291-7;
 - (7) Kidnapping Sec. 292-1;
 - (8) Child-stealing Sec. 292-4;
 - (9) Unlawful use of explosives Sec. 296-8:
 - (10) Sexual intercourse with a female under sixteen - Sec. 309-14;
 - (11) Assault with intent to rape or ravish -Sec. 309-16;
 - (12) Indecent Assault Sec. 309-17;
 - (13) Carnal abuse of female under twelve -Sec. 309-20;
 - (14) Rape Sec. 309-31;
 - (15) Attempted Rape Secs. 248-1, 309-31.
- Section 4. Eligibility for Compensation as a Result of a Crime. The following persons are eligible to apply for compensation as a result of the Commission of an enumerated crime:

- (a) Any person injured or killed by said act or omission or if said person is a minor or incompetent by someone on his behalf. If the person is a child, any person acting as his parent or guardian may apply on his behalf. If the person is mentally defective, his guardian or such other individual authorized to administer his estate may apply;
- (b) Any person responsible for the maintenance and support of the victim and who has suffered pecuniary loss or incurred expenses as a result of the victim's injury;
- (c) In the event of death of the victim, any one or more of the dependents of the deceased victim.
- Section 5. Eligibility for Compensation to Private Citizen.

 Any private citizen who is injured or has suffered property damage in preventing the Commission of a crime within the State, in apprehending a person who has committed a crime within the State, or in materially assisting a peace officer who is engaged in the prevention or attempted prevention of such a crime or the apprehension or attempted apprehension of such person, may apply to the Commission for payment of compensation.
- Applications. Any eligible person mentioned in Section 6. Sections 4 and 5 of this Part who seeks compensation under these rules shall file an application in writing to the Commission. Such applications may be sent by mail or hand-carried to the Commission office in Honolulu, Hawaii. The date on which the papers are actually received by the executive secretary shall be deemed to be the date of filing. The Commission may require statements of the facts surrounding the acts and may require a certification of said statements. Said statements may include, among others, questions regarding recovery from other sources, amount of expenses incurred and dates of hospitalization or medical treatment. All applications for compensation shall be made within eighteen (18) months after the date of injury, death or property damage.
- Section 7. Medical examination. The Commission may require a victim or private citizen applying for compensation to submit to examination, by an impartial licensed physician and to make a report to the Commission. The fees for such examination shall be paid by the Commission.

Notice; hearings. Whenever an application is made Section 8. for compensation by a victim of a crime or his dependents or by a private citizen for indemnification for personal injury or property damage suffered in the prevention of crime or apprehension of a crime, the Commission shall conduct a hearing as soon as practicable after receipt of application. The Commission shall give notice of the hearing to the applicant. Such notice shall be given not less than 10 days prior to the date set for hearing on the application and shall state the time and place of the hearing. Such hearing may by announcement at such time and place be continued from day to day or adjourn to a later date without notice. All hearings shall be open to the public, provided that the Commission may determine that the hearing, or a portion thereof, be held in private if the offender has not been convicted or if it is in the interest of the victim of an alleged sexual offense.

The hearing shall be conducted by the Chairman. The Chairman and one other member shall constitute a quorum. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission. The Commission shall have powers of subpoena, compulsion of attendance of witnesses, production of documents and of examination of witnesses. The Commission may receive in evidence any statement, document, information, or matter that may in the opinion of the Commission contribute to its functions whether or not such statement, document, information or matter would be admissible in a court of law.

- Section 9. Computation of time. In computing any period of time prescribed or allowed by these rules or regulations or order it shall be done by excluding the first day and including the last, unless the last day is a Sunday or holiday, and then it is also excluded.
- Section 10. Documents, applications; amendment; dismissal. All papers, documents and applications must be written, typewritten or printed and signed in ink by the party signing the same and must be legible. The signature of the person signing the document or application constitutes a certification that he has read the document, that to the best of his knowledge, information and belief every statement contained in the document is true and no such statements are misleading.

If any document or application filed with the Commission is not in substantial conformity with

the applicable rules or regulations of the Commission as to the contents thereof, or is otherwise insufficient, the Commission may on its own motion, or on motion of any party, strike or dismiss such document or application or may require its amendment. If amended, the document or application shall be effective as of the date of the original filing.

- Section 11. Orders of award. All orders for the payment of compensation shall contain words clearly informing the claimant that all awards and orders for payments are subject to the making of an appropriation by the legislature to pay the claim.
- Section 12. <u>Judicial Review</u>. Orders and decisions of the Commission shall be conclusive and not subject to judicial review; provided that any person aggrieved by a final order or decision of the Commission on the sole ground that the decision was in excess of the Commission's authority or jurisdiction, shall have a right of appeal to the Supreme Court. Said appeal shall be filed within thirty (30) days after service of a certified copy of the order or decision.

Adopted: November 8, 1968.

Chairman, Criminal Injuries
Compensation Commission

Approved as to Form:

Olangel Faul
Deputy Attorney General

Date: November 12, 1968

Notice of public hearing published in Honolulu Star Bulletin October 16, 1968.

APPROVED:

GOVERNOR'S OFFICE 3 NOV 15 PM 3 11 REC'B. BY Jann a. Bussell
Governor of Hawaii

Date: 200. 15, 1968

THE ANNOTATED CODE OF THE PUBLIC GENERAL LAWS OF MARYLAND

1957

Prepared by the Editorial Staff of the Publishers

Under the Supervision of

A. HEWSON MICHIE, W. O. LEWIS, S. G. ALRICH AND W. M. WILLSON

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IN TEN VOLUMES

With Provision for Subsequent Pocket Parts

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Art. 26, § 134 ANNOTATED CODE OF MARYLAND

ARTICLE 26A.

CRIMINAL INJURIES COMPENSATION ACT.

Sec.

- Declaration of policy and legislative intent.
- 2. Definitions.
- 3. Criminal Injuries Compensation
 Board Creation; composition;
 appointment, qualifications and
 terms of members; chairman;
 salaries.
- 4. Same-Powers and duties.
- 5. Eligibility for awards.
- 6. Filing of claims.
- 7. Minimum allowable claim.
- 8. Decisions on claims By single
 Board member.

Sec.

- 9. Same-By full Board.
- 10. Same-Judicial review.
- 11. Emergency awards.
- 12. Prerequisites to award; amount; apportionment; reduction or denial.
- Manner of payment of award; execution or attachment.
- 14. Confidentiality of records.
- 15. Subrogation.
- 16. Penalty.
- 17. Additional cost to be imposed in criminal cases.

§ 1. Declaration of policy and legislative intent.

The legislature recognizes that many innocent persons suffer personal physical injury or death as a result of criminal acts or in their efforts to prevent crime or apprehend persons committing or attempting to commit crimes. Such persons or their dependents may thereby suffer disability, incur financial hardships or become dependent upon public assistance. The legislature finds and determines that there is a need for government financial assistance for such victims of crime. Accordingly, it is the legislature's intent that aid, care and support be provided by the State, as a matter of moral responsibility, for such victims of crime. (1968, ch. 455, § 1.)

Editor's note.—Section 2, ch. 455, Acts ministration of this 1968, provides that "there shall be an amount appropriated to cover the adeffect July 1, 1968.

ministration of this act." Section 4 of ch. 455 provides that the act shall take effect July 1, 1968.

§ 2. Definitions.

For the purpose of this article:

- (a) "Board" shall mean the Criminal Injuries Compensation Board.
- (b) "Claimant" shall mean the person filing a claim pursuant to this article.
 - (c) "Crime" shall mean an act committed by any person in the State of

Maryland which would constitute a crime as defined in Article 27 of the Annotated Code of Maryland (1967 Replacement Volume) or at common law, provided, however, that no act involving the operation of a motor vehicle which results in injury shall constitute a crime for the purpose of this article unless the injuries were intentionally inflicted through the use of a vehicle.

- (d) "Family" when used with reference to a person, shall mean (1) any person related to such person within the third degree of consanguinity or affinity, (2) any person maintaining a sexual relationship with such person, or (3) any person residing in the same household with such person.
- (e) "Victim" shall mean a person who suffers personal physical injury or death as a direct result of a crime. (1968, ch. 455, § 1.)

Cross reference.—See Editor's note to § 1 of this article.

§ 3. Criminal Injuries Compensation Board—Creation; composition; appointment, qualifications and terms of members; chairman; salaries.

- (a) There is hereby created in the executive department a Board, to be known as the Criminal Injuries Compensation Board, to consist of three members, no more than two of whom shall belong to the same political party. The members of the Board shall be appointed by the Governor, with the advice and consent of the Senate. One member of the Board shall have been admitted to practice law in the State of Maryland for not less than five years next preceding his appointment.
- (b) The term of office of each such member shall be five years, except that the members first appointed shall serve for terms of five years, four years and three years respectively. Any member appointed to fill a vacancy occurring otherwise than by expiration of a term shall be appointed for the remainder of the unexpired terms.
- (c) The Governor shall designate one member of the Board as chairman, to serve at the pleasure of the Governor.
- (d) The members of the Board shall devote such time as is necessary to perform the duties imposed upon them. They shall receive an annual salary as may be provided in the annual budget. (1968, ch. 455, § 1.)

Cross reference.—See Editor's note to § 1 of this article.

§ 4. Same—Powers and duties.

The Board shall have the following powers and duties:

- (a) To establish and maintain an office and appoint a secretary, clerks and such other employees and agents as may be necessary, such employees to be subject to the provisions of Article 64A, titled Merit System, and prescribe their duties.
- (b) To adopt, promulgate, amend and rescind suitable rules and regulations to carry out the provisions and purposes of this article, including

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rules for the approval of attorneys' fees for representation before the Board or before the court upon judicial review as hereinafter provided.

(c) To request from the State's Attorney, State Police, county or municipal police departments such investigation and data as will enable the Board to determine if, in fact, a crime was committed or attempted, and the extent, if any, to which the victim or claimant was responsible for his own injury.

(d) To hear and determine all claims for awards filed with the Board pursuant to this article, and to reinvestigate or reopen cases as the Board

deems necessary.

(e) To direct medical examination of victims.

- (f) To hold hearings, administer oaths or affirmations, examine any person under oath or affirmation and to issue summons requiring the attendance and giving of testimony of witnesses and require the production of any books, papers, documentary or other evidence. The powers provided in this subsection may be delegated by the Board to any member or employee thereof. A summons issued under this subsection shall be regulated by the Maryland Rules of Procedure.
- (g) To take or cause to be taken affidavits or depositions within or without the State.
- (h) To render each year to the Governor and to the legislative council a written report of its activities. (1968, ch. 455, § 1.)

Cross reference.—See Editor's note to § 1 of this article.

§ 5. Eligibility for awards.

- (a) Except as provided in subsection (b) of this section, the following persons shall be eligible for awards pursuant to this article.
 - (1) A victim of a crime;
- (2) A surviving spouse or child of a victim of a crime who died as a direct result of such crime; and
- (3) Any other person dependent for his principal support upon a victim of a crime who died as a direct result of such crime.
- (4) Any person who is injured or killed while trying to prevent a crime or an attempted crime from occurring in his presence or trying to apprehend a person who had committed a crime in his presence or had, in fact, committed a felony.
- (5) A surviving spouse or child of any person who dies as a direct result of trying to prevent a crime or an attempted crime from occurring in his presence or trying to apprehend a person who had committed a crime in his presence or had, in fact, committed a felony.
- (6) Any other person dependent for his principal support upon any person who dies as a direct result of trying to prevent a crime or an attempted crime from occurring in his presence or trying to apprehend a person who had committed a crime in his presence or had, in fact, committed a felony.

(b) A person who is criminally responsible for the crime upon which a claim is based or an accomplice of such person or a member of the family of such persons shall not be eligible to receive an award with respect to such claim. (1968, ch. 455, § 1.)

Cross reference.—See Editor's note to § 1 of this article.

§ 6. Filing of claims.

- (a) A claim may be filed by a person eligible to receive an award, as provided in § 5 of this article, or if such person is a minor, by his parent or guardian. In any case in which the person entitled to make a claim is mentally incompetent, the claim may be filed on his behalf by his guardian or such other individual authorized to administer his estate.
- (b) A claim must be filed by the claimant not later than ninety days after the occurrence of the crime upon which such claim is based, or not later than ninety days after the death of the victim, provided, however, that upon good cause shown, the Board may extend that time for filing for a period not exceeding one year after such occurrence.
- (c) Claims shall be filed in the office of the secretary of the Board in person or by mail. The secretary shall accept for filing all claims submitted by persons eligible under subsection (a) of this section and alleging the jurisdictional requirements set forth in this article and meeting the requirements as to form in the rules and regulations of the Board.
- (d) Upon filing of a claim pursuant to this article, the Board shall promptly notify the State's attorney of the county, or Baltimore City, as the case may be, wherein the crime is alleged to have occurred. If, within ten days after such notification, the State's attorney so notified advises the Board that a criminal prosecution is pending upon the same alleged crime, the Board shall defer all proceedings under this article until such time as such criminal prosecution has been concluded and shall so notify such State's attorney and the claimant. When such criminal prosecution has been concluded, the State's attorney shall promptly so notify the Board. Nothing in this section shall limit the authority of the Board to grant emergency awards as hereinafter provided. (1968, ch. 455, § 1.)

Cross reference.—See Editor's note to § 1 of this article.

§ 7. Minimum allowable claim.

No award shall be made on a claim unless the claimant has incurred a minimum out-of-pocket loss of one hundred dollars or has lost at least two continuous weeks' earnings or support. Out-of-pocket loss shall mean reimbursed and unreimbursable expenses or indebtedness reasonably incurred for medical care or other services necessary as a result of the injury upon which such claim is based. (1968, ch. 455, § 1.)

Cross reference.—See Editor's note to § 1 of this article.

§ 8. Decisions on claims—By single Board member.

(a) A claim, when accepted for filing, shall be assigned by the chair-

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man to himself or to another member of the Board. All claims arising from the death of an individual as a direct result of a crime, shall be considered together by a single Board member.

- (b) The Board member to whom such claim is assigned shall examine the papers filed in support of the claim and shall thereupon cause an investigation to be conducted into the validity of the claim. The investigation shall include, but not be limited to, an examination of police, court and official records and reports concerning the crime and an examination of medical and hospital reports relating to the injury upon which the claim is based.
- (c) Claims shall be investigated and determined, regardless of whether the alleged criminal has been apprehended or prosecuted for or convicted of any crime based upon the same incident, or has been acquitted, or found not guilty of the crime in question owing to criminal responsibility or other legal exemption.
- (d) The Board member to whom a claim is assigned may decide the claim in favor of a claimant on the basis of the papers filed in support thereof and the report of the investigation of the claim. If the Board member is unable to decide the claim upon the basis of the said papers and report, he shall order a hearing. At the hearing any relevant evidence, not legally privileged, shall be admissible.
- (e) After examining the papers filed in support of the claim and the report of investigation, and after a hearing, if any, the Board member to whom the claim was assigned shall make a decision either granting an award pursuant to § 12 of this article or deny the claim.
- (f) The Board member making a decision shall file with the secretary a written report setting forth such decision and his reasons therefor. The secretary shall thereupon notify the claimant and furnish him a copy of such report, upon request. (1968, ch. 455, § 1.)

Cross reference.—See Editor's note to § 1 of this article.

§ 9. Same—By full Board.

- (a) The claimant may, within thirty days after receipt of the report of the Board member to whom his claim was assigned, make an application in writing to the Board for consideration of the decision by the full Board.
- (b) Upon receipt of an application pursuant to subsection (a) of this section or upon its own motion, the Board shall review the record and affirm or modify the decision of the Board member to whom the claim was assigned. The action of the Board in affirming or modifying such decision shall be final. If the Board receives no application pursuant to subsection (a) of this section or takes no action upon its own motion the decision of the Board member to whom the claim was assigned shall become the final decision of the Board.
- (c) The secretary of the Board shall promptly notify the claimant, the Attorney General and the Comptroller of the final decision of the Board

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and furnish each with a copy of the report setting forth the decision. (1968, ch. 455, § 1.)

Cross reference.—See Editor's note to § 1 of this article.

§ 10. Same—Judicial review.

- (a) Within thirty days after receipt of the copy of the report containing the final decision of the Board, the Attorney General may, if in his judgment the award is improper, commence a proceeding in the circuit court of the county or the Supreme Bench of Baltimore City, as the case may be, to review the decision of the Board. Any such proceeding shall be heard in a summary manner and shall have precedence over all other civil cases in such court. The court may, however, take additional testimony, if it so desires. There shall be no other judicial review of any decision made or action taken by the Board, by a member of the Board or by the secretary of the Board with respect to any claim.
- (b) Any such proceeding shall be commenced by the service of notice thereof upon the claimant and the Board in person or by mail. (1968, ch. 455, § 1.)

Cross reference.—See Editor's note to \S 1 of this article.

§ 11. Emergency awards.

Notwithstanding the provisions of §§ 6 and 8 of this article, if it appears to the Board member to whom a claim is assigned, prior to taking action upon such claim, that (a) such claim is one with respect to which an award probably will be made, and (b) undue hardship will result to the claimant if immediate payment is not made, the Board member may make an emergency award to the claimant pending a final decision in the case, provided, however, that (1) the amount of such emergency award shall not exceed five hundred dollars, (2) the amount of such emergency award shall be deducted from any final award made to the claimant, and (3) the excess of the amount of such emergency award over the final award, or the full amount of the emergency award if not final award is made, shall be repaid by the claimant to the Board. (1968, ch. 455, § 1.)

Cross reference.—See Editor's note to § 1 of this article.

§ 12. Prerequisites to award; amount; apportionment; reduction or denial.

(a) No award shall be made unless the Board or Board members, as the case may be, finds that (1) a crime was committed, (2) such crime directly resulted in personal physical injury to, or death of the victim, and (3) police records show that such crime was promptly reported to the proper authorities; and in no case may an award be made where the police records show that such report was made more than forty-eight hours after the occurrence of such crime unless the Board, for good cause shown, finds the delay to have been justified. The Board, upon finding that

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any claimant or award recipient has not fully cooperated with all law enforcement agencies, may deny or withdraw any award, as the case may be.

- (b) Any award made pursuant to this article shall be made in accordance with the schedule of benefits and degree of disability as specified in § 36 of Article 101 of the Code, excluding § 66 entitled "Subsequent Injury Fund."
- (c) If there are two or more persons entitled to an award as a result of the death of a person which is the direct result of a crime, the award shall be apportioned among the claimants.
- (d) Any award made pursuant to this article shall be reduced by the amount of any payments received or to be received as a result of the injury (1) from or on behalf of the person who committed the crime, (2) from any other public or private source, including an award of the Workmen's Compensation Commission under Article 101, (3) as an emergency award pursuant to § 11 of this article.
- (e) In determining the amount of an award, the Board or Board members, as the case may be, shall determine whether, because of his conduct, the victim of such crime contributed to the infliction of his injury, and the Board or Board member shall reduce the amount of the award or reject the claim altogether, in accordance with such determination; provided, however, that the Board or Board member, as the case may be, may disregard for this purpose the responsibility of the victim for his own injury where the record shows that such responsibility was attributable to efforts by the victim to prevent a crime or an attempted crime from occurring in his presence or to apprehend a person who had committed a crime in his presence or had, in fact, committed a felony.
- (f) If the Board or Board member, as the case may be, finds that the claimant will not suffer serious financial hardship, as a result of the loss of earnings or support and the out-of-pocket expenses incurred as a result of the injury, if not granted financial assistance pursuant to this article to meet such loss of earnings, support or out-of-pocket expenses, the Board or Board members shall deny an award. In determining such serious financial hardship, the Board or Board member shall consider all of the financial resources of the claimant. (1968, ch. 455, § 1.)

Cross reference.—See Editor's note to § 1 of this article.

§ 13. Manner of payment of award; execution or attachment.

Any award made under this article shall be paid in accordance with the provisions of § 36 and other applicable sections of Article 101 of this Code, excluding § 66 of that article entitled "Subsequent Injury Fund." No award made pursuant to this article shall be subject to execution or attachment other than for expenses resulting from the injury which is the basis for the claim. (1968, ch. 455, § 1.)

Cross reference.—See Editor's note to § 1 of this article.

§ 14. Confidentiality of records.

The record of a proceeding before the Board or a Board member shall be a public record; provided, however, that any record or report obtained by the Board, the confidentiality of which is protected by any other law or regulation, shall remain confidential subject to such law or regulation. (1968, ch. 455, § 1.)

Cross reference.—See Editor's note to 8 1 of this article.

§ 15. Subrogation.

Acceptance of an award made pursuant to this article shall subrogate the State, to the extent of such award, to any right or right of action occurring to the claimant or the victim to recover payments on account of losses resulting from the crime with respect to which the award is made. (1968, ch. 455, § 1.)

Cross reference.—See Editor's note to § 1 of this article.

§ 16. Penalty.

Any person who asserts a false claim under the provisions of this article shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not less than \$500 or one year imprisonment or both, and shall further forfeit any benefit received and shall reimburse and repay the State for payments received or paid on his behalf pursuant to any of the provisions hereunder. (1968, ch. 455, § 1.)

Cross reference.—See Editor's note to § 1 of this article.

§ 17. Additional cost to be imposed in criminal cases.

Where any person is convicted after July 1, 1968, of any crime by any judge, or trial magistrate, with criminal jurisdiction, there shall be imposed as additional cost, in the case, in addition to any other costs required to be imposed by law, the sum of five dollars (\$5). All such sums shall be paid over to the Comptroller of the State to be deposited in the general funds of the State. Under no condition shall a political subdivision be held liable for the payment of this sum of five dollars (\$5). Crime as used in this section does include violations of Articles 66½ (Motor Vehicles) or 66C (Natural Resources) of this Code. (1968, ch. 455, § 1; 1969, ch. 286.)

Cross reference. See Editor's note to amendment, effective July 1, 1969, re-§ 1 of this article. wrote the last sentence.

Effect of amendment, — The 1969

MASSACHUSETTS GENERAL LAWS ANNOTATED

Under Arrangement of the Official General Laws of Massachusetts

> Volume 42 Chapters 248 to 258

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CHAPTER 258A. COMPENSATION OF VICTIMS OF VIOLENT CRIMES [NEW]

Sec.

1. Definitions.

- 2. Jurisdiction; disqualification of judge; failure of claimant to prosecute.
- 3. Eligibility for compensation.

4. Filing and proof of claims.

5. Compensation; restrictions.

- Determination of amount of compensasation; decisions.
- 7. Subrogation.

Chapter 258A was added by St.1967, c. 852, § 1, effective July 1, 1968.

Law Review Commentaries

Massachusetts' plan to aid victims of crime. Glenn Eldon Floyd (1968) 48 Boston U.L.Rev. 360.

§ 1. Definitions

The following words as used in this chapter shall have the following meanings, unless the context requires otherwise:

"Crime", an act committed in the commonwealth which, if committed by a mentally competent, criminally responsible adult, who had no legal exemption or defense, would constitute a crime; provided that such act involves the application of force or violence or the threat of force or violence by the offender upon the victim; and provided, further, that no act involving the operation of a motor vehicle which results in injury to another shall constitute a crime for the purpose of this chapter unless such injury was intentionally inflicted through the use of a motor vehicle.

"Dependent", mother, father, spouse, spouse's mother, spouse's father, child, grandchild, adopted child, illegitimate child, niece or nephew, who is wholly or partially dependent for support upon and living with the victim at the time of his injury or death due to a crime alleged in a claim pursuant to this chapter.

"Family", the spouse, parent, grandparent, step-mother, step-father, child, grandchild, brother, sister, half-brother, half-sister, adopted children of parent, or spouse's

parents of the offender.

"Offender", a person who commits a crime.

"Victim", a person who suffers personal injury or death as a direct result of a crime.

Added St.1967, c. 852, § 1, effective July 1, 1968.

1967 Enactment. St.1967, c. 852, was approved Jan. 2, 1968, Section 4 provided that chapter 258A should take effect July 1, 1968, and be applicable only to victims of crimes committed on or after said date. Law Review Commentaries

Victim compensation plans. (Feb. 1969) 55 A.B.A.J. 159.

Library references
Criminal Law €=1220.
C.J.S. Criminal Law § 2007.

§ 2. Jurisdiction; disqualification of judge; failure of claimant to prosecute

The district courts of the commonwealth shall, pursuant to the provisions of this chapter, have jurisdiction to determine and award compensation to victims of crimes.

258A § 2 COMPENSATION OF CRIME VICTIMS

Such claims shall be brought in a district court within the territorial jurisdiction in which the claimant lives. A judge who has heard a criminal case in which the crime alleged as the basis of such claim shall not sit in determination of such claim. A judge who has heard such a claim shall not sit in a criminal case arising from a crime alleged in such claim. Failure to prosecute, or to prosecute successfully an offender in a criminal case, shall not in any way prejudice the claim of an eligible claimant unless such failure is due to the provocation of the offender by the victim.

Added St.1967, c. 852, § 1, effective July 1, 1968.

Library references Criminal Law € 1220. C.J.S. Criminal Law § 2007.

§ 3. Eligibility for compensation

Except as hereinafter provided, the following persons shall be eligible for compensation pursuant to this chapter:

(a) a victim of a crime;

(b) in the case of the death of the victim as a direct result of the crime, a dependent of the victim.

An offender or an accomplice of an offender, a member of the family of the offender, a person living with the offender or a person maintaining sexual relations with the offender shall in no case be eligible to receive compensation with respect to a crime committed by the offender.

Added St.1967, c. 852, § 1, effective July 1, 1968.

Library references
Criminal Law @=1220.
C.J.S. Criminal Law § 2007.

§ 4. Filing and proof of claims

A claim for compensation may be filed by a person eligible for compensation or if he is a minor or is incompetent by his parent or guardian.

A claim shall be filed not later than one year after the occurrence of the crime upon which it is based, or not later than ninety days after the death of the victim whichever is earlier; provided, however, that upon good cause, the court may either before or after the expiration of said filing period extend the time for filing such claim.

Each claim shall be filed in the office of the clerk of the district court in personor by mail, and shall be accompanied by an entry fee of five dollars. Said clerk shall immediately notify the attorney general of the claim. Such notification shall be in writing, with copies of such material as is included in the claim or in support thereof. The attorney general shall investigate such claim, prior to the opening of formal court proceedings. Said clerk of court shall notify the claimant and the attorney general of the date and time of any hearing on such claim.

The attorney general shall present any information he may have in support of or in opposition to the claim. The claimant may present evidence and testimony on his own behalf or may retain counsel. The court may, as part of any order entered under this chapter, determine and allow reasonable attorney's fees, which shall not exceed fifteen per cent of the amount awarded as compensation under this chapter, which fee shall be paid out of, but not in addition to, the amount of compensation, to the attorney representing the claimant. No attorney for the claimant shall ask for, contract for or receive any larger sum than the amount so allowed.

The person filing a claim shall, prior to any hearing thereon, submit reports, if available, from all hospitals, physicians or surgeons who treated or examined the victim for the injury for which compensation is sought. If, in the opinion of the

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court, an examination of the injured victim and a report thereon, or a report on the cause of death of the victim, would be of material aid, the court may appoint a duly qualified impartial physician to make such examination and report.

Added St.1967, c. 852, § 1, effective July 1, 1968.

Library references
Criminal Law @==1220.
C.J.S. Criminal Law § 2007.

§ 5. Compensation; restrictions

No compensation shall be paid unless the claimant has incurred an out-of-pocket loss of at least one hundred dollars or has lost two continuous weeks of earnings or support. Out-of-pocket loss shall mean unreimbursed or unreimbursable expenses or indebtedness reasonably incurred for medical care or other services necessary as a result of the injury upon which such claim is based. One hundred dollars shall be deducted from any award granted under this chapter.

No compensation shall be paid unless the court finds that a crime was committed, that such crime directly resulted in personal physical injury to, or the death of, the victim, and that police records show that such crime was promptly reported to the proper authorities. In no case may compensation be paid if the police records show that such report was made more than forty-eight hours after the occurrence of such crime, unless the court finds said report to the police to have been delayed for good cause.

Any compensation paid under this chapter shall be in an amount not exceeding out-of-pocket loss, together with loss of earnings or support resulting from such injury.

Any compensation for loss of earnings or support shall be in an amount equal to the actual loss sustained; provided, however, that no award under this chapter shall exceed ten thousand dollars. If two or more persons are entitled to compensation as a result of a death of a person which is the direct result of a crime, the compensation shall be apportioned by the court among the claimants in proportion to their loss.

Added St.1967, c. 852, § 1, effective July 1, 1968.

§ 6. Determination of amount of compensation; decisions

For the purpose of determining the amount of compensation payable pursuant to this chapter, the chief justice of the district court and the chief justice of the municipal court of the city of Boston shall, insofar as practicable, formulate standards for the uniform application of this chapter. The court shall take into consideration the provisions of this chapter, the rates and amounts of compensation payable for injuries and death under other laws of the commonwealth and of the United States, excluding pain and suffering, and the availability of funds appropriated for the purpose of this chapter. All decisions of the court on claims heard under this chapter shall be in writing, setting forth the name of the claimant, the amount of compensation and the reasons for the decision. The clerk of the court shall immediately notify the claimant in writing of the decision and shall forward to the state treasurer a certified copy of the decision. The state treasurer without further authorization shall, subject to appropriation, pay the claimant the amount determined by the court.

Any compensation paid pursuant to this chapter shall be reduced by the amount of any payments received or to be received as a result of the injury (a) from or on behalf of the offender, (b) under insurance programs, or (c) from public funds.

In determining the amount of compensation payable, the court shall determine whether because of his conduct the victim contributed to the infliction of his injury; and the court shall reduce the amount of the compensation or deny the claim

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altogether, in accordance with such determination; provided, however, that the court may disregard the responsibility of the victim for his own injury where such responsibility was attributable to efforts by the victim to aid a victim, or to prevent a crime or an attempted crime from occurring in his presence or to apprehend a person who had committed a crime in his presence or had in fact committed a felony.

Added St.1967, c. 852, § 1, effective July 1, 1968.

Rules adopted under this section, see
Rules of the District Courts, Rules 80 and
81.

Library references
Criminal Law ©
C.J.S. Criminal

Criminal Law ©=1220.

C.J.S. Criminal Law, § 2007, 11

Uniform rules for determination of claims, see c. 218, § 43D. Common response to the common of the c

§ 7. Subrogation

Acceptance of any compensation under this chapter shall subrogate the commonwealth, to the extent of such compensation paid, to any right or right of action accruing to the claimant or to the victim to recover payments on account of losses resulting from the crime with respect to which the compensation has been paid. The attorney general may enforce the subrogation, and he shall bring suit to recover from any person to whom compensation is paid, to the extent of the compensation actually paid under this chapter, any amount received by the claimant from any source exceeding the actual loss to the victim.

Added St.1967, c. 852, § 1, effective July 1, 1968.

Library references
Subrogation € 26.
C.J.S. Subrogation § 9.

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and
REGULATIONS
of the
CRIMINAL INJURIES
COMPENSATION BOARD





STATE OF MARYLAND CRIMINAL INJURIES COMPENSATION BOARD

1123 N. Eutaw StreetBaltimore, Maryland 21201(301) 523-5000

JOSEPH PICKUS

Chairman

GEORGE BEALL
DENNIS C. McCOY
Commissioners

MARTIN I. MOYLAN
Executive Director

RULES AND REGULATIONS of the

CRIMINAL INJURIES COMPENSATION BOARD

By virtue of the authority vested in it by Article 26A, Section 4(b), Annotated Code of Maryland (1968 supp.), the Criminal Injuries Compensation Board hereby establishes, adopts and promulgates the annexed rules as its rules and regulations to carry out the provisions and purposes of said Article 26A, supra, effective on the date such rules and regulations are filed with the clerk of the Court of Appeals of Maryland, Secretary of State and with the Department of Legislative Reference.

The above rules and regulations were adopted by this Board on July 30, 1969.

RULE	I.	DEFINITIONS
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RULE I-DEFINITIONS

The definitions set forth in Article 26A, Section 2, are hereby adopted by this Board, and incorporated by reference in these rules.

RULE II-FILING OF CLAIMS

In addition to all other statutory requisites, claims must be filed on official forms which includes an authorization and subrogations agreement, in the office of the Executive Secretary at number 601 Jackson Towers, Baltimore, Maryland (21201), in person or by mail.

RULE III—INVESTIGATION OF CLAIMS

All claimants under the law creating this agency must fully cooperate with investigators, agents and/or representatives of this agency in order to be eligible for an award. In the event that such cooperation is refused or denied the Executive Secretary may in his discretion deny such claim altogether.

RULE IV-RULES OF EVIDENCE

The Board shall not be bound by common law or statutory rules of evidence or by any technical or formal rules or procedure, other than as herein provided, but may make investigations on such occasions and in such manner as in its judgment is best calculated to ascertain the substantial rights of the parties and to carry out justly the spirit of Article 26A.

RULE V—NOTICE OF HEARINGS AT REQUEST OF MEMBER OF BOARD

In the event a Board Member orders a hearing pursuant to Article 26A, Section 8(d), the claimant, his or her attorney, and all material and necessary parties, shall be notified in writing of the time, place and purpose of any such hearing. Such notice shall be mailed not less than ten days before the date of hearing, unless waived by claimant. In the discretion of the Board Member hearing the claim any issue may be considered and determined although not indicated in the notice of hearing, if the administration of Article 26A will thereby be substantially served.

RULE VI-HEARINGS UNDER RULE V

- A. The claimant shall be present at the hearing and shall be allowed to present testimony or cross-examine witnesses in person or by counsel.
- B. The claimant shall have the burden of proof. The parties or their representatives shall be allowed a reasonable time for presentation or oral argument or for the filing of briefs or other statements or depositions as to the facts or the law.
- C. The Board Member may receive as evidence any statement, document, information or matter that he finds in his discretion is relevant and of such a nature as to afford the parties a fair hearing.

The Board Member may also accept hospital records and reports and physician's reports as proof of the injury sustained without requiring the presence of the attending physician at the hearing.

- D. The Board Member may direct medical examination of the claimant by a physician designated by him for this purpose. The claimant shall present himself to the physician named at the time and place designated. No representative of the claimant or any other interested party shall be present at the examination. A written report of such examination duly sworn to shall be filed by the examining physician with the Board and a copy mailed to the claimant or his attorney. The physician's fee shall be paid by the Board.
- E. All hearings shall be conducted in an orderly manner in order to ascertain the substantial rights of the parties. All witnesses shall testify under oath (or by affirmation) and a record of the proceedings shall be transcribed. The Board Member may examine the claimant and all witnesses.
- F. Hearings may be adjourned on motion of the Board Member hearing the claim or upon timely request of any interested party. The failure of the claimant to appear at the time of the hearing may in the discretion of the Board Member, upon good cause shown, be excused and a new hearing scheduled. Otherwise, claim may be denied altogether.
- G. Hearings generally shall be open to the public except that the Board Member may in his discretion hold the hearing in private in the following instances:
 - 1. Prosecution against the alleged perpetrator of the crime is pending and no trial has been had.
 - 2. In an alleged sexual offense where the welfare and interest of the victim or dependents may be adversely effected.
 - 3. In the interest of public morality.
 - 4. Where prosecution has resulted in an acquittal or a dismissal on technical grounds.
 - 5. On written request by claimant or counsel within five days before hearing.
- H. Prior to decision by the Board Member hearing the claim, on application of the claimant or his attorney (submitted in affidavit form) or upon motion of the Board Member, the case may be reopened for further investigation, and if the Board Member finds it necessary, further testimony. The Board may, on its own motion, reinvestigate or reopen cases at any time, as the Board deems necessary.
- I. Hearings shall be held at 601 Jackson Towers, Baltimore, Maryland (21201), unless otherwise indicated.

RULE VIII—ATTORNEYS

Claimants have the right to be represented before the Board or any member thereof at all stages of the proceeding, by an attorney at law duly licensed to practice in the State of Maryland.

The attorney shall file a notice of appearance, and, when appropriate, a notice of substitution, prior to or at his first appearance.

If any party designates an attorney at law to represent him and such attorney has executed and filed with the Board a notice of appearance in the matter, in substantially the form annexed hereto; such notice shall remain in effect until:

- 1. The party represented files with the Board a written revocation of the attorney's authority; or
- 2. The attorney files with the Board a written statement of his withdrawal from the case; or
- 3. The attorney states on the record at a Board hearing that he is withdrawing from the case; or
 - 4. The Board received notice of the Attorney's death or disqualification.

After a filing of a notice of appearance in accordance with this rule, and so long as it may remain in effect, copies of all written communications or notices in the matter to the party shall be sent to such attorney in lieu of the party so represented or to both the party and his atorney. Service upon the attorney shall be deemed service on the party he represents.

RULE IX-ATTORNEY'S FEES

- A. The attorney's fees must be approved by the Board Member to whom the claim is assigned and the member may require a written statement of services rendered or an affidavit of services rendered.
- B. Whenever an award is made to a claimant by an attorney and a fee is requested, the Board Member shall approve a fee commensurate with the services rendered.
- C. Attorney's fees shall be awarded at the discretion of the Board Member to whom the claim has been assigned, but in no case shall any such fee be based solely on the amount of the award.
- D. No prior agreement between an attorney and a client to pay the attorney a fee out of the client's award will be honored by the Board. The Board and the Board alone shall set and determine the attorney's fee.

RULE X-FORMS

The Board shall prepare and furnish free of cost blank forms and have same readily available on application or request of any interested party, including but not limited to claim forms, authorization and subrogation agreements, attorneys appearance forms, et cetera.

RULE XI-SUBPOENAS ET CETERA

The Board or any member thereof shall issue subpoenas and subpoenas duces tecum, either on its or his own instance, or, upon written application of any party made not less than ten days prior to the hearing. Subpoenas and subpoenas duces tecum shall comply with the Maryland Rules of Practice and Procedure. Their issuance at the instance of a party shall depend upon a showing of the necessity therefor to a Board Member. A written request shall also designate the names and address of witnesses and the location of documents, books, payrolls, personnel records, correspondence, papers, or any other evidence relating to the claim being heard. The Board Member hearing the claim may in his discretion waive the ten day provision.

Where a subpoena or a subpoena duces tecum is issued at the instance of the claimant or other necessary party, the cost of service and witnesses and mileage fees shall be borne by the party at whose request it is issued. Where a subpoena or a subpoena duces tecum is issued at the instance of the Board Member thereof, such service and witnesses and mileage fees shall be borne by the Board.

The Board or any Member thereof on its or his own motion or on the application of the claimant, shall whenever necessary, and upon such terms and conditions as it or he may determine, take or cause to be taken affidavits and depositions of witnesses residing within or without the state. The requesting party shall bear the expense.

RULE XII—DETERMINING SERIOUS FINANCIAL HARDSHIP

- A. In determining serious financial hardship, the Board or Board Member shall consider all the financial resources of the claimant excepting those items specifically exempted by these rules.
- B. All claimants are therefore required to submit a financial statement under oath on forms supplied by this Board in order to have their respective claims considered and processed.
- C. In the event a claimant refuses to submit such financial statement, the Board Member to whom such claim has been assigned, shall refuse to take any action upon the same until such time as this requisite is complied with.

RULE XIII—EXEMPTIONS

In determining serious financial hardship the Board standards shall exempt and not take into consideration the following:

- 1. A homestead.
- Personal property consisting of clothing and strictly personal affects.
- Tools and equipment necessary for claimants trade, occupation or business.

- 4. Household furniture, appliances and equipment
- 5. A family automobile
- 6. Life insurance except in death claims, in the face amount of \$1,000.00 for the claimant and a similar sum of \$1,000.00 for the claimants spouse or each dependent child.
- 7. Savings in an amount equal to the claimants annual net income.

RULE XIV-EMERGENCY AWARDS

No application for an emergency award shall be considered unless a claim has been filed with the Board. The claim and the application for the emergency award may be filed simultaneously.

Application for an emergency award may be made either by mail or in person upon an affidavit setting forth in detail the grounds therefor. The Board Member to whom the claim is assigned shall upon receipt of the application for an emergency award give preference to such application and shall expeditiously act thereon.

RULE XV-MANNER OF PAYMENT

If there are two or more persons entitled to an award as a result of the death of a person which is the direct result of a crime, the Board Member shall apportion the award among the claimants in the proportion as he finds that the deceased victim contributed to their support.

In the event of a change of dependency of the claimant or any of them, either by marriage of a widow or otherwise, the Board may change the proportion and the amount of the payments to the claimant.

In death cases the Board shall at least every six months verify the dependency and financial circumstances of the claimants and upon finding a change the Board may reduce or increase the proportion of the allowance and award to the claimants as the circumstances warrant.

In protracted disability cases the Board shall at least every six months verify the disability of the claimant to determine whether he is entitled to continue to receive periodical payments either in the amount awarded or a reduced amount.

RULE XVI—DEPENDENCY

All questions relating to dependency shall be determined in accordance with Article 101, Section 36 which is hereby incorporated by reference.

XVII—DECISIONS BY FULL BOARD

In order to be eligible for review by the full Board pursuant to Section 9 of Article 26A, all evidence, as near as possible, must have been filed with this Board. Otherwise, the Board may in its discretion delay its

decision or a hearing thereon until the aforegoing requisite has been complied with.

XVIII—JUDICIAL REVIEW

- A. Upon a proceeding being instituted by the Attorney General, pursuant to the provision of Section 10, the Board shall furnish a copy of the transcript of the testimony to the Attorney General and to the claimant or his attorney, at their expense.
- B. Appeals from this Board shall be governed by the Maryland Administrative Procedures Act.

RULE XIX—AMENDMENTS TO RULES

New rules may be adopted and any rule may be amended or rescinded by the Board at a regular or special meeting, provided that notice of the proposed adoption, amendment or recission has been given to all members of the Board at least seventy-two hours before the meeting at which action is to be taken.

New rules, amendments or recissions shall become effective the date filed in the office of the Secretary of State.

RULE XX-PUBLICATION OF CLAIMS

The Board from time to time may publish the record of claims but shall not divulge the name of the claimant or other interested parties.

RULE XXI-AVAILABILITY OF RULES

The rules of the Board shall be available to the public at all offices of the Criminal Injuries Compensation Board, at such reasonable costs as not to exceed their cost of their publication.

RULE XXII—CONSTRUCTION OF RULES

These rules shall be liberally construed to accomplish the purpose of Article 26A.

RULE XXIII-QUORUM

The Chairman and one other Member of the Board shall constitute a quorum. Where opinion is divided, a majority shall prevail. Where opinion is divided and only the Chairman and one other Member is present, the opinion of the Chairman shall prevail.

RULE XXIV—MEETINGS

Meetings shall be held upon notice by the Chairman at such time and place as he shall direct.

NEVADA REVISED STATUTES



Volume &

CHAPTER 217

COMPENSATION FOR VICTIMS OF CRIMINAL ACTS

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217.260 Payments from emergency fund account.

217.010 Policy of state; purpose of chapter.

1. It is the policy of this state to encourage the cooperation and assistance of the public in law enforcement and to promote the public welfare.

It is the purpose of this chapter to facilitate and permit the payment of compensation to victims injured and to dependents of victims killed as a result of certain serious crimes or in attempts to prevent the commission of crime or to arrest suspected criminals.

(Added to NRS by 1969, 1151)

217.020 Definitions. As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 217.030 to 217.070, inclusive, have the meanings ascribed to them in such sections. (Added to NRS by 1969, 1151)

"Board" defined. "Board" means the state board of exam-217.030 iners.

(Added to NRS by 1969, 1151)

217.040 "Dependents" defined. "Dependents" means the relatives of a deceased victim who were wholly or partially dependent upon his income at the time of his death and includes the child of such victim born after his death.

(Added to NRS by 1969, 1151)

217.050 "Personal injury" defined. "Personal injury" means actual bodily harm.

(Added to NRS by 1969, 1151)

217.060 "Relative" defined. "Relative" of any person includes a spouse, parent, grandparent, stepparent, natural born, step or adopted child, grandchild, brother, sister, half brother, half sister or parents of the spouse.

(Added to NRS by 1969, 1151)

217.070 "Victim" defined. "Victim" means a person who is physically injured or killed while attempting to prevent the commission of a crime or to arrest a suspected criminal or while aiding or attempting to aid a police officer to do so.

(Added to NRS by 1969, 1151)

217.080 Expenses of board members. Members of the board shall serve without additional compensation, but are entitled to subsistence allowances and travel expenses pursuant to the provisions of NRS 281.-160 while engaged in the performance of official duties under this chapter.

(Added to NRS by 1969, 1151)

217.090 Hearing officers: Appointment; qualifications; duties. board may appoint one or more hearing officers, who must be licensed to practice law in this state, to conduct hearings and take testimony in any proceeding pursuant to this chapter, but final determinations of any matter shall be only by the board. A hearing officer acting pursuant to this section shall report his findings of fact and conclusions of law to the board, together with the reasons therefor. The board shall act only after consideration of the report and such other evidence as it deems appropriate.

(Added to NRS by 1969, 1151)

217.100 Application for compensation; medical reports.

1. Any person eligible for compensation under the provisions of this

chapter may apply to the board for such compensation. Where the person entitled to make application is:

(a) A minor, the application may be made on his behalf by a parent or

guardian.

(b) Mentally incompetent, the application may be made on his behalf by a parent, guardian or other person authorized to administer his estate.

2. Prior to a hearing on any application, the applicant shall submit reports, if reasonably available, from all physicians or surgeons who, at the time of or subsequent to the victim's injury or death, treated or examined the victim in relation to the injury for which compensation is claimed. If, in the opinion of the board, reports on the previous medical history of the victim or an examination of the victim and report thereon or a report on the cause of death of the victim by an impartial medical expert would aid the board in its determination, the board may order such reports.

(Added to NRS by 1969, 1151)

217.110 Hearings.

1. Upon receipt of an application for compensation, the board shall fix a time and place for a hearing and shall give notice thereof to the

applicant.

2. The board or its hearing officer may hold such hearings, sit and act at such times and places, and take such testimony as it or he may deem advisable. The board or its hearing officer may administer oaths or affirmations to witnesses. The board has full powers of subpena and compulsion of attendance of witnesses and production of documents; but no subpena may be issued except under the signature of a member of the board. Application to any court for aid in enforcing such subpena may be made in the name of the board only by a member thereof. Subpenas may be served by any person designated by the board.

3. The applicant and any other person having a substantial interest in the outcome of a proceeding may appear and be heard, produce evidence and cross-examine witnesses in person or by his attorney. The board or its hearing officer also may hear other persons who may have

relevant evidence to submit.

4. Any statement, document, information or matter may be received in evidence if, in the opinion of the board or its hearing officer, it contributes to a determination of the claim, whether or not such evidence would be admissible in a court of law.

5. Orders and decisions of the board are final.

(Added to NRS by 1969, 1152)

217.120 Proof of conviction conclusive evidence of commission of offense. If any person has been convicted of any offense with respect

to an act on which a claim under this chapter is based, proof of that conviction is conclusive evidence that the offense has been committed, unless an appeal or any proceeding with regard thereto is pending. (Added to NRS by 1969, 1152)

217.130 Rules and regulations. In the performance of its functions, the board may adopt, rescind and amend rules and regulations prescribing the procedures to be followed in the filing of applications and proceedings under this chapter, and for such other matters as the board deems appropriate.

(Added to NRS by 1969, 1152)

217.140 Attorney's fees. The board may, as part of any order entered pursuant to the provisions of this chapter, allow reasonable attorney fees, but such fees shall not exceed 10 percent of the amount awarded as compensation and shall be paid to the attorney representing the applicant out of, not in addition to, the amount of such compensation. It is unlawful for any attorney to ask for, contract for or receive any larger sum than the amount so allowed.

(Added to NRS by 1969, 1152)

217.150 Standards for compensation. In determining the amount of any compensation payable under the provisions of this chapter, the board shall so far as practicable, formulate standards for uniform application of this chapter and shall take into consideration rates and amounts of compensation payable for injuries and death under other laws of this state and of the United States.

(Added to NRS by 1969, 1152)

217.160 Awarding compensation. The board may order the payment of compensation:

To or for the benefit of the injured person;

Where the victim has suffered personal injury, to any person responsible for the maintenance of the victim who has suffered pecuniary loss or incurred expenses as a result of such injury; or

3. Where the victim dies, to or for the benefit of any one or more

of the dependents of the victim.

(Added to NRS by 1969, 1153)

217.170 Suspension of proceedings. Upon application made by an appropriate prosecuting authority, the board may suspend any proceedings being conducted pursuant to this chapter for such period as it deems appropriate on the ground that a prosecution for an offense arising from the act or omission to act on which the claim for compensation is based has been commenced or is imminent.

(Added to NRS by 1969, 1153)

217.180 Order for compensation: Considerations.

1. In determining whether to make an order for compensation, the board shall consider the provocation, consent or any other behavior of the victim which directly or indirectly contributed to his injury or death, the prior case or social history, if any, of the victim, need of the victim or his dependents for financial aid and other relevant matters.

2. In determining the amount of compensation to be allowed by order, the board shall consider amounts received or receivable from any other source by the victim or his dependents as a result of the incident or

offense giving rise to the application.

3. An order for compensation may be made whether or not any person is prosecuted or convicted of any offense arising from the act on which the claim for compensation is based.

(Added to NRS by 1969, 1153)

217.190 Incidents to which chapter applies; affidavits of police officers. The board may order the payment of compensation in accordance with the provisions of this chapter for physical injury to or death of the victim which resulted from an attempt to prevent the commission of crime or to arrest a suspected criminal or aiding or attempting to aid a police officer to do so. If physical injury to or death of a person results from aiding or attempting to aid a police officer as provided in this section, no compensation may be allowed by the board unless such police officer files with the board an affidavit in support of any claim which may be made.

(Added to NRS by 1969, 1153)

217.200 Nature of compensation; certificate for meritorious citizen's service. The board may order the payment of compensation and the award of a governor's certificate for meritorious citizen's service for:

1. Expenses actually and reasonably incurred as a result of the per-

sonal injury or death of the victim;

2. Loss of earning power as a result of the total or partial incapacity of the victim;

3. Pecuniary loss to the dependents of a deceased victim; and

4. Any other loss which results from the personal injury or death of the victim and which the board determines to be reasonable.

(Added to NRS by 1969, 1153)

217.210 Time limitations on awarding compensation. No order for the payment of compensation may be made unless the application is made within 2 years after the date of the personal injury or death on which the claim is based, and the personal injury or death was the result of an incident or offense which was reported to the police within 5 days of its occurrence or, if the incident or offense could not reasonably have been reported within such period, within 5 days of the time when a report could reasonably have been made.

(Added to NRS by 1969, 1153)

217.220 When compensation not to be awarded; limitation on money award; lump sum payment.

1. Compensation shall not be awarded if the victim:

(a) Is a relative of the offender;

(b) Was, at the time of the personal injury or death of the victim, living with the offender as a member of his family or household or maintaining a sexual relationship, whether illicit or not, with such person or with any member of the family of such person;

(c) Violated a penal law of this state, which caused or contributed to

his injuries or death; or

(d) Was injured as a result of the operation of a motor vehicle, boat or airplane unless such vehicle, boat or airplane was used as a weapon in a deliberate attempt to harm the victim.

2. No compensation may be awarded under this chapter in an amount in excess of \$5,000, and all payment shall be made in a lump

(Added to NRS by 1969, 1153)

217.230 Applicability of chapter to injuries, death occurring after July 1, 1969. Orders for payment of compensation pursuant to this chapter may be made only as to injuries or death resulting from incidents or offenses occurring on and after July 1, 1969.

(Added to NRS by 1969, 1154)

217.240 Recovery from offender. Whenever an order for the payment of compensation for personal injury or death is made pursuant to this chapter, the board is, upon payment of the order, subrogated to the cause of action of the applicant against the person or persons responsible for such injury or death and may bring an action against such person or persons for the amount of the damages sustained by the applicant. If an amount greater than that paid pursuant to the order is recovered and collected in any such action, the board shall pay the balance to the applicant.

(Added to NRS by 1969, 1154)

217.250 Reports. The board shall prepare and transmit annually to the governor and legislature a report of its activities under this chapter including the name of each applicant, a brief description of the facts in each case and the amount of any compensation awarded.

(Added to NRS by 1969, 1154)

217.260 Payments from emergency fund account. Funds for payment of compensation as ordered by the board shall be paid from the emergency fund account.

(Added to NRS by 1969, 1154)

NEW JERSEY SESSION LAW SERVICE

Laws

1971 Regular Session 194th New Jersey Legislature

CRIMINAL INJURIES COMPENSATION ACT OF 1971

CHAPTER 3171

SENATE NO. 15

An Act authorizing and providing for compensation for the innocent victims of crime in certain cases and making an appropriation.

Be it enacted by the Senate and General Assembly of the State of New Jersey:

1.
This act shall be known and may be cited as the "Criminal Injuries Compensation Act of 1971."

2.

As used in this act:

"Child" means an unmarried person who is under 21 years of age and includes a stepchild or an adopted child;

"Board" means the Violent Crimes Compensation Board established by this

act;

"Dependents" means such relatives of a deceased victim as were wholly or partially dependent upon his income at the time of his death and shall include the child of such victim born after his death;

"Personal injury" means actual bodily harm and includes pregnancy and

mental or nervous shock;

"Relative" of any person means his spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, sister, half brother, half sister, or spouse's parents;

"Family relationship group" of any person means:

(1) any person related to such person within the third degree of consanguinity or affinity,

(2) any person living in the same household as such person, or

1. N.J.S.A. 52:4B-1 to 52:4B-21. Additions in text are indicated by underline; deletions by strikeouts

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(3) any person maintaining a sexual relationship, whether illicit or not, with such person or with any member of the family of such person;

"Victim" means a person who is injured or killed by any act or omission of any other person which is within the description of any of the offenses specified in section 11 of this act.

3.

There is hereby established in the Executive Branch of the State Government a Violent Crimes Compensation Board which shall be composed of 3 citizens, to be appointed by the Governor, with the advice and consent of the Senate, one of whom shall be designated chairman by, and serve as such at the pleasure of, the Governor. Not more than two of the members of the board shall be members of the same political party. At least two members of the board shall be attorneys admitted to the practice of law in the State of New Jersey. For the purposes of complying with the Constitution (Article V, Section IV, paragraph 1) the board is allocated to the Department of Law and Public Safety but, notwithstanding said allocation, the board shall be independent of any supervision or control by the department or the Attorney General or any other officer of the department.

4

The term of office of each member of the board shall be 5 years and until his successor is appointed and qualifies, except that of the members first appointed one shall be appointed for a term of 5 years, one for a term of 4 years and one for a term of 3 years. All vacancies, except through the expiration of term, shall be filled for the unexpired term only.

Each member of the board shall be eligible for reappointment and any member of the board may be removed by the Governor for inefficiency, neglect of duty or malfeasance in office.

Each member of the board shall receive the same annual compensation as that payable to judges of compensation and shall devote his full time and capacity to their duties, and shall not engage in any other occupation, profession or employment.

5.

The board is authorized to appoint and fix the duties and compensation of such officers, attorneys, examiners, and other experts as may be necessary for carrying out its functions under this act, and the board may, subject to Title 11 of the Revised Statutes, "Civil Service," appoint and fix the duties and compensation of such other assistants and employees as are necessary.

6.

The principal office of the board shall be in Trenton, New Jersey, but the board may sit and conduct its affairs in any place.

7.

Hearings upon applications for compensation under this act shall be conducted in the following manner:

- a. Upon an application made to the board under the provisions of this act, the board shall fix a time and place for a hearing on such application and shall cause notice thereof to be given to the applicant;
- b. For the purpose of carrying out the provisions of this act, the board, or any member thereof, may hold such hearings, sit and act at such times and places, and take such testimony as the board or such member may deem advisable. Any member of the board may administer oaths or affirmations to witnesses. The board shall have full powers of subpœna and compulsion of attendance of witnesses and production of documents, except that no subpæna shall be issued except under the signature of a member of the board, and application to any court for aid in enforcing such subpæna may be made in the name of the board by any member thereof. Subpænas shall be served by any person designated by the board;

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c. In any case in which the person entitled to make an application is a child, the application may be made on his behalf by his parent or guardian. In any case in which the person entitled to make an application is mentally incompetent, the application may be made on his behalf by his guardian or such other individual authorized to administer his estate;

d. Any person having a substantial interest in a proceeding may appear, produce evidence and cross-examine witnesses in person or by his attorney.

e. The board may receive in evidence any statement, document, information, or matter that may in the opinion of the board contribute to its functions under this act, but the board shall not be bound by the rules of evidence.

f. If any person has been convicted of any offense with respect to an act or omission on which a claim under this act is based, proof of that conviction shall be taken as conclusive evidence that the offense has been committed, unless an appeal or any proceeding with regard thereto is pending.

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The board may, as a part of any order entered under this act, determine and allow reasonable attorney fees, which shall not exceed 15% of the amount awarded as compensation under section 10 of this act, to be paid in addition to the amount of such compensation, to the attorney representing the applicant, and it shall be unlawful for any such attorney to ask for, contract for or receive any larger sum than the amount so allowed.

9.

In the performance of its functions, the board is authorized to make rules and regulations prescribing the procedures to be followed in the filing of applications and the proceedings under this act, and such other matters as the board deems appropriate.

In determining the amounts of compensation payable pursuant to this act the board shall insofar as practicable formulate standards for uniform application of this act and shall take into consideration rates and amounts of compensation payable for injuries and death under other laws of this State and of the United States and the availability of funds appropriated for the purposes of this act.

10.

In any case in which a person is injured or killed by any act or omission of any other person which is within the description of the offenses listed in section 11 of this act, the board may, upon application and the concurrence of a majority of the members thereof, order the payment of compensation in accordance with the provisions of this act:

a. to or on behalf of the victim,

b. in the case of the personal injury of the victim, where the compensation is for pecuniary loss suffered or expenses incurred by any person responsible for the maintenance of the victim, to that person, or

c. In the case of the death of the victim, to or for the benefit of the dependents of the deceased victim, or any one or more of such dependents.

In determining whether to make an order under this section, the board may consider any circumstances it determines to be relevant, including provocation, consent or the behavior of the victim which directly or indirectly contributed to his injury or death, the prior case history, if any, of the victim and any other relevant matters.

An order may be made under this section whether or not any person Is prosecuted or convicted of any offense arising out of such act or omission. Upon application made by an appropriate prosecuting authority, the board may suspend proceedings under this act for such period as it deems appropriate on the ground that a prosecution for an offense arising out of such act or omission has been commenced or is imminent.

For the purposes of this act, a person shall be deemed to have intended an act or omission notwithstanding that by reason of age, insanity or otherwise, he was legally incapable of forming a criminal intent.

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The board may order the payment of compensation in accordance with the provisions of this act for personal injury or death which resulted from:

(a) an attempt to prevent the commission of crime or to arrest a suspected criminal or in aiding or attempting to aid a police officer so to do, or

(b) the commission or attempt to commit any of the following offenses:

1. assault constituting a high misdemeanor;

2. mayhem;

3. threats to do bodily harm;

- 4. lewd, indecent, or obscene acts;
- 5. indecent act with children:
- 6. kidnapping;
- 7. murder:
- 8. manslaughter;
- 9. rape;
- 10. any other crime involving violence.

12.

The board may order the payment of compensation under this act for:

a. expenses actually and reasonably incurred as a result of the personal injury or death of the victim,

b. loss of earning power as a result of total or partial incapacity of such victim,

c. pecuniary loss to the dependents of the deceased victim, and

d. any other pecuniary loss resulting from the personal injury or death of the victim which the board determines to be reasonable.

13.

To assist the board in determining the nature, extent or cause of personal injury or cause of death compensable under this act, the board shall maintain a panel of impartial medical experts. The specialties to be represented on the panel and the number of experts in each specialty shall be determined jointly by the Medical Society of New Jersey and the board. The experts to serve on the panel in the several specialties shall be designated by the Medical Society of New Jersey.

14.

Prior to a hearing on any application pursuant to this act, the applicant or his attorney shall submit reports from all physicians or surgeons or duly accredited religious practitioners who have treated or examined the injured party or the decedent. If in the opinion of the board an examination of the injured person and a report thereon or a report on the cause of death by an impartial medical expert would be of material aid to the just determination of the action, the board may order such an examination, where appropriate, and report by an expert or experts chosen from the panel of impartial medical experts.

15.

The order for the appointment of impartial medical experts and directing an examination of an injured party and report thereon or a report on the cause of death of a decedent shall, to the extent applicable and with due regard to the religious tenets of an applicant:

a. Designate the name of the impartial medical expert and his specialty;

b. Specify the conditions and scope of the examination to be conducted and the report to be made;

c. Direct the injured party to submit to a physical examination as specified in the order;

d. Direct all parties and their counsel to deliver to the board for the use of the designated expert all medical reports, X-rays, X-ray reports and records and reports of pathological or neurological examinations or tests of the injured party of the decedent which are in their possession or under their control;

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e. Direct the injured party or his counsel to prepare a list of the names and addresses of any physicians or hospitals which may have any relevant medical records and to deliver the same to the board, for the use of the designated expert, together with a written and signed consent for the examination by the designated expert of any hospital records or other medical records or reports which are not in the possession or under the control of the injured party or his counsel;

f. Direct the injured party to be examined to disclose to the designated expert at his request, and not otherwise, any fact necessary and relevant to

his examination and report;

g. Authorize the designated expert to make or to have made by others of his selection such supplementary diagnostic procedures or tests as shall be necessary and relevant to his examination and report and direct the party to be examined to submit thereto; and

h. Fix the date by which the examination is to be made and the date by which the report of the designated expert is to be delivered to the board.

16.

The designated expert, upon receipt of all the reports, records and other pertinent medical information, shall fix the time and place of examination and give notice thereof to the applicant or his attorney who may be present with applicant at said examination. The report of said expert shall be filed with the board prior to the date set for the hearing of the matter. If, in the discretion of the board, the testimony of said expert is required at the hearing, he shall be called as a witness and he may be cross-examined.

17.

The fees of the designated expert, both for his examination and report and for his appearance in court, when necessary, together with the fees for any supplemental diagnostic procedures or tests ordered by him in connection with such examination and report, shall be approved by the board for payment out of funds appropriated for the administration of this act.

. 18.

No order for the payment of compensation shall be made under section 10 of this act unless the application has been made within 1 year after the date of the personal injury or death, and the personal injury or death was the result of an offense listed in section 11 of this act which had been reported to the police within 3 months after its occurrence.

In determining the amount of an award, the board shall determine whether, because of his conduct, the victim of such crime contributed to the infliction of his injury, and the board shall reduce the amount of the award or reject the application altogether, in accordance with such determination; provided, however, that the board shall not consider any conduct of the victim contributory toward his injury, if the record indicates such conduct occurred during efforts by the victim to prevent a crime or apprehend a person who had committed a crime in his presence or had in fact committed a misdemeanor.

No compensation shall be awarded if the victim

a. is a relative of the offender,

b. was at the time of the personal injury or death of the victim living with the offender as a member of his family relationship group,

c. was guilty of a violation of subtitle 10 or 12 of Title 2A of the New Jersey Statutes, which caused or contributed to his injuries,

d. was injured as a result of the operation of a motor vehicle, boat or airplane unless the same was used as a weapon in a deliberate attempt to run the victim down.

No award shall be made on an application unless the applicant has incurred a minimum out-of-pocket loss of \$100.00 or has lost at least 2 continuous weeks earnings or support. Out-of-pocket loss shall mean unreimbursed and

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unrelmbursable expenses or indebtedness reasonably incurred for medical care or other services necessary as a result of the injury upon which such application is based.

No compensation shall be awarded under this act in an amount in excess of \$10,000.00, and all payments shall be made in a lump sum, except that in the case of death or protracted disability the award may provide for periodic payments to compensate for loss of earnings or support. No award made pursuant to this act shall be subject to execution or attachment other than for expenses resulting from the injury which is the basis of the claim.

19.

In determining the amount of compensation to be allowed by order, the board shall take into consideration amounts received or receivable from any other source or sources by the victim or his dependents as a result of the offense or occurrence giving rise to the application.

Each order for compensation made by the board shall be filed with the Director of the Division of Budget and Accounting and shall constitute authority for payment by the State Treasurer to the person or persons named therein of the amounts specified in such order.

20

Whenever an order for the payment of compensation is or has been made for personal injury or death resulting from an act or omission constituting an offense under this act, the board shall, upon payment of the amount of the order, be subrogated to the cause of action of the applicant against the person or persons responsible for such personal injury or death and shall be entitled to bring an action against such person or persons for the amount of the damage sustained by the applicant and in the event that more is recovered and collected in any such action than the amount paid by reason of the order for payment of compensation, the board shall pay the balance to the applicant.

21.

If any section or sections of this act or any provision thereof shall be declared to be unconstitutional, invalid or inoperative in whole or in part, such section or provision shall, to the exent that it is not unconstitutional, invalid or inoperative be enforced and effectuated and no such determination shall be deemed to invalidate or make ineffectual the remaining provisions of the sections of this act.

22.

Orders for payment of compensation pursuant to this act may be made only as to injuries or death resulting from offenses occurring on and after November 1, 1971.

23.

There is hereby appropriated to the Department of Law and Public Safety for the administration of this act until June 30, 1972 the sum of \$250,000.00, and the board upon its appointment and organization shall make a study of its fiscal requirements under this act and formulate a budget therefor to be submitted for inclusion in an annual or supplemental appropriation act.

24.

This act shall take effect immediately. Approved and effective Oct. 4, 1971.

THE CONSOLIDATED LAWS OF NEW YORK ANNOTATED

Book 18 Executive Law

With
Annotations From State and Federal Courts

Kept to Date by Cumulative Annual Pocket Parts



Brooklyn, N. Y.
EDWARD THOMPSON COMPANY

ARTICLE 22 1—CRIME VICTIMS COMPENSATION BOARD [NEW]

¹ Another article 22, relating to article 22 relating to council on arnatural beauty commission, is set out chitecture, was renumbered 26.

Sec.

620. Declaration of policy and legislative intent.

621. Definitions

622. Crime victims compensation board. 623. Powers and duties of the board.

624. Eligibility.

625. Filing of claims.

626. Minimum allowable claim. 627. Determination of claims.

628. Consideration of decisions by full board.

629. Judicial review.

630. Emergency awards.

631. Awards.

632. Manner of payment.

633. Confidentiality of records.

634. Subrogation.

635. Severability of provisions.

Article added L.1966, c. 894, eff. Aug. 1, 1966.

Effective date of L.1966, c. 894. Section 3 of L.1966, c. 894, provided:
"This set [adding this article] shall

"This act [adding this article] shall take effect immediately, [August 1, 1966] but the provisions of article twenty-two of the executive law, as added by this act, shall apply only to claims resulting from crimes committed on or after March first, nineteen hundred sixty-seven."

Law Review Commentaries

Compensation for victims of crimes of violence. 31 Albany L.Rev. 120.

§ 620.1 Declaration of policy and legislative intent

The legislature recognizes that many innocent persons suffer personal physical injury or death as a result of criminal acts. Such persons or their dependents may thereby suffer disability, incur financial hardships, or become dependent upon public assistance. The legislature finds and determines that there is a need for government financial assistance for such victims of crime. Accordingly, it is the legislature's intent that aid, care and support be provided by the state, as a matter of grace, for such victims of crime. Added L.1966, c. 894, § 1, eff. Aug. 1, 1966.

1 Another section 620 relating to natural beauty commission is set out in article immediately preceding this article.

Article as applicable only to crimes committed on or after March 1, 1967, see note preceding section 620.

§ 621.1 Definitions

For the purposes of this article:

1. "Board" shall mean the crime victims compensation board.

2. "Claimant" shall mean the person filing a claim pursuant to this article.

3. "Crime" shall mean an act committed in New York state which would, if committed by a mentally competent criminally responsible adult, who has no legal exemption or defense, constitute a crime as defined in and proscribed by the penal law, provided, however, that no act involving the operation of a motor vehicle which results in injury shall constitute a crime for the purposes of this article unless the injuries were intentionally inflicted through the use of a vehicle.

4. "Family", when used with reference to a person, shall mean (a) any person related to such person within the third degree of con-

sanguinity or affinity, (b) any person maintaining a sexual relationship with such person, or (e) any person residing in the same household with such person.

5. "Victim" shall mean a person who suffers personal physical injury as a direct result of a crime. Added L.1966, c. 894, § 1, eff. Aug. 1,

1966.

1 Another section 621 relating to natural beauty commission is set out in article immediately preceding this article.

Article as applicable only to crimes committed on or after March 1, 1967, see note preceding section 620.

§ 622.1 Crime victims compensation board

1. There is hereby created in the executive department a board, to be known as the crime victims compensation board. Such board shall consist of three members, no more than two of whom shall belong to the same political party, who shall be appointed by the governor by and with the advice and consent of the senate. The members of the board shall have been admitted to practice law in the state of New York for not less than ten years next preceding their appointment.

2. The term of office of each such member shall be seven years, except that the members first appointed shall serve for terms of seven years, five years and three years, respectively. Any member appointed to fill a vacancy occurring otherwise than by expiration of a term

shall be appointed for the remainder of the unexpired term.

3. The governor shall designate one member of the board as chair-

man thereof, to serve as such at the pleasure of the governor.

4. The members of the board shall devote their whole time and capacity to their duties, and shall not engage in any other occupation, profession or employment, and shall receive an annual salary to be fixed by the governor within the amount made available therefor by appropriation. Added L.1966, c. 894, § 1, eff. Aug. 1, 1966.

1 Another section 622 relating to natural beauty commission is set out in

article immediately preceding this article.

Article as applicable only to crimes committed on or after March 1, 1967, see note preceding section 620,

§ 623.1 Powers and duties of the board

The board shall have the following powers and duties:

1. To establish and maintain a principal office and such other offices

within the state as it may deem necessary.

2. To appoint a secretary, counsel, clerks and such other employees and agents as it may deem necessary, fix their compensation within the

limitations provided by law, and prescribe their duties.

- 3. To adopt, promulgate, amend and reseind suitable rules and regulations to carry out the provisions and purposes of this article, including rules for the approval of attorneys' fees for representation before the board or before the appellate division upon judicial review as provided for in section six hundred twenty-nine of this article.
- 4. To request from the division of state police, from county or municipal police departments and agencies and from any other state or municipal department or agency, or public authority, and the same are hereby authorized to provide, such assistance and data as will enable the board to earry out its functions and duties.

5. To hear and determine all claims for awards filed with the board pursuant to this article, and to reinvestigate or reopen cases as the board

deems necessary.

- 6. To direct medical examination of victims.
- To hold hearings, administer oaths or affirmations, examine any person under oath or affirmation and to issue subpoenas requiring the attendance and giving of testimony of witnesses and require the production of any books, papers, documentary or other evidence. The powers

provided in this subdivision may be delegated by the board to any member or employee thereof. A subpoena issued under this subdivision shall be regulated by the civil practice law and rules.

- 8. To take or cause to be taken affidavits or depositions within or without the state.
- 9. To render each year to the governor and to the legislature a written report of its activities. Added L.1966, c. 894, § 1, eff. Aug. 1, 1966.
- 1 Another section 623 relating to natural beauty commission is set out in article immediately preceding this article.

Article as applicable only to crimes committed on or after March 1, 1967, see note preceding section 620.

§ 624.1 Eligibility

- 1. Except as provided in subdivision two of this section, the following persons shall be eligible for awards pursuant to this article:
 - (a) a victim of a crime;
- (b) a surviving spouse, parent or child of a victim of a crime who died as a direct result of such crime; and
- (e) any other person dependent for his principal support upon a victim of a crime who died as a direct result of such crime.
- 2. A person who is criminally responsible for the crime upon which a claim is based or an accomplice of such person or a member of the family of such persons shall not be eligible to receive an award with respect to such claim. Added L.1966, c. 894, § 1; L.1968, c. 661, eff. June 16, 1968.
- ¹ Another section 624 relating to natural beauty commission is set out in article immediately preceding this article.

Article as applicable only to crimes committed on or after March 1, 1967, see note preceding section 620.

Subd. 1 amended L.1968, c. 661, eff. June 16, 1968. L.1968, in par. (b), inserted "parent."

§ 625.1 Filing of claims

- 1. A claim may be filed by a person eligible to receive an award, as provided in section six hundred twenty-four of this article, or, if such person is a minor, by his parent or guardian.
- 2. A claim must be filed by the claimant not later than ninety days after the occurrence of the crime upon which such claim is based, or not later than ninety days after the death of the victim, provided, however, that upon good cause shown, the board may extend the time for filing for a period not exceeding one year after such occurrence.
- 3. Claims shall be filed in the office of the secretary of the board in person or by mail. The secretary of the board shall accept for filing all claims submitted by persons eligible under subdivision one of this section and alleging the jurisdictional requirements set forth in this article and meeting the requirements as to form in the rules and regulations of the board.
- 4. Upon filing of a claim pursuant to this article, the board shall promptly notify the district attorney of the county wherein the crime is alleged to have occurred. If, within ten days after such notification, such district attorney advises the board that a criminal prosecution is pending upon the same alleged crime and requests that action by the board be deferred, the board shall defer all proceedings under this article until such time as such criminal prosecution has been concluded and shall so notify such district attorney and the claimant. When such criminal prosecution has been concluded, such district attorney shall promptly so notify the board. Nothing in this section shall limit the authority of

· the board to grant emergency awards pursuant to section six hundred thirty of this article.

Added L.1966, c. 894, § 1; amended L.1969, c. 726, eff. May 22, 1969.

1 Another section 625 relating to natural beauty commission is set out in article immediately preceding this article.

Article as applicable only to crimes committed on or after March 1, 1967, see note preceding section 620.

Subd. 4 amended L.1969, c. 726, eff. tuted "six hundred thirty" for "six May 22, 1969. L.1969, in sentence hundred twenty-nine." beginning "Nothing in this", substi-

§ 626.1 Minimum allowable claim

No award shall be made on a claim unless the claimant has incurred a minimum out-of-pocket loss of one hundred dollars or has lost at least two continuous weeks earnings or support. Out-of-pocket loss shall mean unreimbursed and unreimbursable expenses or indebtedness reasonably incurred for medical care or other services necessary as a result of the injury upon which such claim is based. Added L.1966, c. 894, § 1, eff. Aug. 1, 1966.

Another section 626 relating to natural beauty commission is set out in

article immediately preceding this article.

Article as applicable only to crimes committed on or after March 1, 1967, see note preceding section 620.

§ 627. Determination of claims

- 1. A claim, when accepted for filing, shall be assigned by the chairman to himself or to another member of the board. All claims arising from the death of an individual as a direct result of a crime, shall be considered together by a single board member.
- 2. The board member to whom such claim is assigned shall examine the papers filed in support of such claim. The board member shall thereupon cause an investigation to be conducted into the validity of such claim. Such investigation shall include, but not be limited to, an examination of police, court and official records and reports concerning the crime and an examination of medical and hospital reports relating to the injury upon which such claim is based.
- 3. Claims shall be investigated and determined, regardless of whether the alleged criminal has been apprehended or prosecuted for or convicted of any crime based upon the same incident, or has been acquitted, or found not guilty of the crime in question owing to criminal irresponsibility or other legal exemption.
- 4. The board member to whom a claim is assigned may decide such claim in favor of a claimant in the amount claimed on the basis of the papers filed in support thereof and the report of the investigation of such claim. If the board member is unable to decide such claim upon the basis of such papers and such report, he shall order a hearing. At such hearing any relevant evidence, not legally privileged, shall be admissible.
- 5. After examining the papers filed in support of such claim and the report of investigation, and after a hearing, if any, the board member to whom such claim was assigned shall make a decision either granting an award pursuant to section six hundred thirty-one of this article or deny the claim.
- 6. The board member making a decision shall file with the secretary a written report setting forth such decision and his reasons therefor. The secretary shall thereupon notify the claimant and furnish him a copy of such report. Added L.1966, c. 894, § 1, eff. Aug. 1, 1966.

Article as applicable only to crimes committed on or after March 1, 1967, see note preceding section 620.

§ 628. Consideration of decisions by full board

- 1. The claimant may, within thirty days after receipt of the report of the decision of the board member to whom his claim was assigned, make an application in writing to the board for consideration of such decision by the full board.
- 2. Any member of the board may, within thirty days after the filing of such report, make an application in writing to the board for consideration of such decision by the full board.
- 3. Upon receipt of an application pursuant to subdivision one or two of this section, the board shall review the record and affirm or modify the decision of the board member to whom the claim was assigned. The action of the board in affirming or modifying such decision shall be final. The board shall file with the secretary of the board a written report setting forth its decision, and if such decision varies in any respect from the report of the board member to whom the claim was assigned setting forth its reasons for such decision. If the board receives no application pursuant to subdivision one or two of this section the decision of the board member to whom the claim was assigned shall become the final decision of the board.
- 4. The secretary of the board shall promptly notify the claimant, the attorney general and the comptroller of the final decision of the board and furnish each with a copy of the report setting forth such decision. Added L.1966, c. 894, § 1, eff. Aug. 1, 1966.

Article as applicable only to crimes committed on or after March 1, 1967, see note preceding section 620.

§ 629. Judicial review

- 1. Within thirty days after receipt of the copy of the report containing the final decision of the board, the attorney general may, if in his judgment the award is improper or excessive, commence a proceeding in the appellate division of the supreme court, third department, to review the decision of the board. Within thirty days after receipt of the copy of such report, the comptroller may, if in his judgment the award is improper or excessive, request the attorney general to commence a proceeding in the appellate division of the supreme court, third department, to review the decision of the board in which event the attorney general shall commence such a proceeding. Such proceeding shall be heard in a summary manner and shall have precedence over all other civil cases in such court. There shall be no other judicial review of any decision made or action taken by the board, by a member of the board or by the secretary of the board with respect to any claim.
- 2. Any such proceeding shall be commenced by the service of notice thereof upon the claimant and the board in person or by mail. Added L.1966, c. 894, § 1, eff. Aug. 1, 1966.

Article as applicable only to crimes committed on or after March 1, 1967, see note preceding section 620.

§ 630. Emergency awards

Notwithstanding the provisions of section six hundred twenty-seven of this article, if it appears to the board member to whom a claim is assigned, prior to taking action upon such claim, that (a) such claim is one with respect to which an award probably will be made, and (b) undue hardship will result to the claimant if immediate payment is not made, such board member may make an emergency award to the claimant pending a final decision in the case, provided, however, that (a) the amount of such emergency award shall not exceed five hundred dollars, (b) the amount of such emergency award shall be deducted from any final award made to the claimant, and (c) the excess of the amount of such emergency award over the amount of the final award, or the full amount of the emergency award if no final award is made, shall

be repaid by the claimant to the board. Added L.1966, c. 894, § 1, eff. Aug. 1, 1966.

Article as applicable only to crimes committed on or after March 1, 1967, see note preceding section 620.

§ 631. Awards

1. No award shall be made unless the board or board member, as the case may be, finds that (a) a crime was committed, (b) such crime directly resulted in personal physical injury to, or death of, the victim, and (c) police records show that such crime was promptly reported to the proper authorities; and in no case may an award be made where the police records show that such report was made more than forty-eight hours after the occurrence of such crime unless the board, for good cause shown, finds the delay to have been justified.

2. Any award made pursuant to this article shall be in an amount not exceeding out-of-pocket expenses, including indebtedness reasonably incurred for medical or other services necessary as a result of the injury upon which the claim is based, together with loss of earnings

or support resulting from such injury.

- 3. Any award made for loss of earnings or support shall, unless reduced pursuant to other provisions of this article, be in an amount equal to the actual loss sustained, provided, however, that no such award shall exceed one hundred dollars for each week of lost earnings or support, and provided further that the aggregate award for such loss shall not exceed fifteen thousand dollars. If there are two or more persons entitled to an award as a result of the death of a person which is the direct result of a crime, the award shall be apportioned by the board among the claimants.
- 4. Any award made pursuant to this article shall be reduced by the amount of any payments received or to be received by the claimant as a result of the injury (a) from or on behalf of the person who committed the crime, (b) under insurance programs mandated by law, (c) from public funds, (d) under any contract of insurance wherein the claimant is the insured or beneficiary, (e) as an emergency award pursuant to section six hundred thirty of this article.
- 5. In determining the amount of an award, the board or board member, as the case may be, shall determine whether, because of his conduct, the victim of such crime contributed to the infliction of his injury, and the board or board member shall reduce the amount of the award or reject the claim altogether, in accordance with such determination; provided, however, that the board or board member, as the case may be, may disregard for this purpose the responsibility of the victim for his own injury where the record shows that such responsibility was attributable to efforts by the victim to prevent a crime or an attempted crime from occurring in his presence or to apprehend a person who had committed a crime in his presence or had in fact committed a felony.
- 6. If the board or board member, as the case may be, finds that the claimant will not suffer serious financial hardship, as a result of the loss of earnings or support and the out-of-pocket expenses incurred as a result of the injury, if not granted financial assistance pursuant to this article to meet such loss of earnings, support or out-of-pocket expenses, the board or board members shall deny an award. In determining such serious financial hardship, the board or board member shall consider all of the financial resources of the claimant. The board shall establish specific standards by rule for determining such serious financial hardship. Added L.1966, c. 894, § 1; amended L.1970, c. 376, eff. May 1, 1970.

Subd. 4 amended L.1970, c. 376, (d) and relettered former cl. (d) as eff. May 1, 1970. L.1970 inserted cl. (e).

Article as applicable only to crimes committed on or after March 1, 1967, see note preceding section 620.

8 632. Manner of payment

The award shall be paid in a lump sum, except that in the case of death or protracted disability the award shall provide for periodic payments to compensate for loss of earnings or support. No award made pursuant to this article shall be subject to execution or attachment other than for expenses resulting from the injury which is the basis for the claim. Added L.1966, c. 894, § 1, eff. Aug. 1, 1966.

Article as applicable only to crimes committed on or after March 1, 1967, see

note preceding section 620.

§ 633. Confidentiality of records

The record of a proceeding before the board or a board member shall be a public record; provided, however, that any record or report obtained by the board, the confidentiality of which is protected by any other law or regulation, shall remain confidential subject to such law or regulation. Added L.1966, c. 894, § 1, eff. Aug. 1, 1966.

Article as applicable only to crimes committed on or after March 1, 1967, see

note preceding section 620.

§ 634. Subrogation

Acceptance of an award made pursuant to this article shall subrogate the state, to the extent of such award, to any right or right of action accruing to the claimant or the victim to recover payments on account of losses resulting from the crime with respect to which the award is made. Added L.1966, c. 894, § 1, eff. Aug. 1, 1966.

Article as applicable only to crimes committed on or after March 1, 1967, see note preceding section 620.

§ 635. Severability of provisions

If any provision of this article or the application thereof to any person or circumstances is held invalid, the remainder of this article and the application of such provision to other persons or circumstances shall not be affected thereby. Added L.1966, c. 894, § 1, eff. Aug. 1, 1966.

ARTICLE 23—CRIME CONTROL COUNCIL [NEW]

Sec.

640. Declaration of policy and legislative intent.

641. Definitions.

642. Crime control council.

643. Powers and duties of the council. 644. Powers and duties of the chairman.

645. Compensation of members.

646. Chairman; employees.

647. Assistance of other agencies.

Article added L.1967, c. 167, eff. April 1, 1967.

§ 640. Declaration of policy and legislative intent

The legislature hereby finds and declares that:

1. The steady increase in crime rates is a serious threat to the peace and security of the people of the state.

2. This increased crime rate continues in spite of the many efforts which have been taken to strengthen crime control programs and the massive expenditure of public funds for this purpose.

3. The control of crime will be substantially strengthened through improved coordination and cooperation of all the state agencies concerned with law enforcement, criminal justice and post adjudicatory treatment of offenders.

' 4. The creation of a crime control council made up of the heads of the state departments and agencies concerned with the control of crime will provide a central focus for better coordination, and a vehicle for improved cooperation with local criminal justice agencies.

5. Repealed. Added L.1967, c. 167; amended L.1969, c. 490, § 3, eff. May 10, 1969.

Subd. 5, which related to the responsibility of the council to provide long-range policy planning and program development, continuous re-search, and a methodology for placing new programs in the perspective of a long-range plan, was repealed L.1969, c. 490, § 3, eff. May 10, 1969. Library references

States \$\infty\$45. C.J.S. States §§ 52, 66.

§ 641. Definitions

For the purposes of this article:

"Council" shall mean the crime control council.

"Chairman" shall mean the chairman of the crime control council. Added L.1967, c. 167, eff. April 1, 1967.

§ 642. Crime control council

There is hereby created within the executive department a crime control council, to consist of the attorney general, the chairman of the narcotic addiction control commission, the director of the division for local police of the office for local government, the superintendent of state police, the director of the division for youth, the commissioner of correction, the chairman of the state board of parole, the director of the state identification and intelligence system, and one additional member who shall be the chairman of the council, to be appointed by the governor, by and with the advice and consent of the senate, who shall hold office during the pleasure of the governor. The chairman shall direct the work of the council and shall be the chief executive officer of the council.

In addition to the members of the council referred to in subdivision one of this section, the governor may appoint the chairman of the state commission of investigation, and the chairman of the municipal police training council to be advisory members of the council.

The council shall meet at the call of the chairman and shall be called by him at the direction of the governor or upon the written request of four members of the council.

Added L.1967, c. 167; amended L.1968, c. 431; L.1969, c. 490, § 1, eff.

May 10, 1969.

Subd. 1 amended L.1968, c. 431, eff.

May 31, 1968. L.1968 inserted "the attorney general."

Subd. 2 amended L.1968, c. 431, eff. May 31, 1968; L.1969, c. 490, § 1, eff. May 10, 1969. L.1968 included appointment of one police chief or commissioner as advisory members. L.1969 deleted provisions which provided for the appointment of the state administrator of the judicial confer-

ence, one district attorney of the state and one police chief or commissioner as advisory members of the council. Subd. 3 amended L.1969, c. 490, § 1, eff. May 10, 1969. L.1969 substituted provisions requiring the council to meet at the call of the chairman for provisions which required the council to meet at least twelve times in each year and permitted special

meetings to be called by the chairman.

§ 643. Powers and duties of the council

The council shall have the power and it shall be its duty to:

1. Advise and assist the governor in developing policies, plans and programs for improving the coordination and effectiveness of the administration of all state and local agencies engaged in the administration of criminal justice and crime control programs.

Make recommendations to the governor for more effective measures for prevention and detection of crime, and the rehabilitation of criminal offenders and for determining causation factors which give rise to criminal behavior.

- 3. Promote closer cooperation among federal, state and local agencies concerned with law enforcement, criminal justice, and post adjudicatory programs for treatment of offenders.
- 4. Act as a clearinghouse for information relating to crime control and criminal justice and to encourage educational programs for citizen support of state and local programs.
- 5. Appoint such advisory committees as may be necessary or desirable to assist in the carrying out of its functions, powers and duties.
- 6. Make an annual report to the governor and the legislature concerning its work during the preceding year, and such further interim reports to the governor, or to the governor and legislature as is shall deem advisable, or as shall be required by the governor.

7. Adopt, amend or rescind such rules and regulations as may be necessary or convenient to the performance of the functions, powers

and duties of the council.

8. Enter into contracts, within the amount available by appropriation therefor, with any person, firm, corporation or governmental agency, and to do all things necessary or convenient to carry out the functions, powers and duties set forth in this article.

Added L.1967, c. 167; amended L.1969, c. 490, § 2, eff. May 10, 1969.

Subd. 3, formerly 6, renumbered 3, L.1969, c, 490, § 2, eff. May 10, 1969. Former subd. 3, which related to the power of the council to prepare and adopt comprehensive plans based on an evaluation of state and local problems of law enforcement, criminal justice and post adjudicatory treatment of offenders, was deleted L.1969, c. 490, § 2, eff. May 10, 1969.

Subd. 4, formerly 7, renumbered 4, L.1939, c. 490, \$ 2, eff. May 10, 1969. Former subd. 4, which related to the power of the council to act as a central repository for federal, state, regional and local research studies, plans and project proposals relating to the improvement of law enforcement and the safety of the people of the state, was deleted L.1969, c. 490, \$ 2, eff. May 1969.

Subd. 5, formerly 8, numbered 5, L.1969, c. 490, § 2, eff. May 10, 1969.

Former subd. 5. which related to the power of the council to act as agent for the state in contracting for, accepting, or agreeing to accept, funds from the federal government for the improvement of law enforcement, criminal justice and post adjudicatoy programs for treatment of offenders, was deleted L.1969, c. 490, § 2, eff. May 10, 1969.

Subd. 6, formerly 9, renumbered 6, L.1969, c. 490, § 2 eff. May 10, 1969. Subd. 7, formerly 10, renumbered 7, L.1969, c. 490, § 2. eff. May 10, 1969. Subd. 8, formerly 11, renumbered 8, L.1969, c. 490, § 2, eff. May 10,

Library references States €=67. C.J.S. States §§ 58, 66.

§ 644. Powers and duties of the chairman

In addition to the chairman's general power and duty to direct the work of the council he shall have the following powers and duties:

1969.

1. To consult with, advise and assist the district attorneys of the state in matters relating to the duties of their office and to consult with the district attorneys in the development of comprehensive plans based upon the council's evaluation of state and local problems of law enforcement and criminal justice.

2. To undertake research and studies for the accomplishment of the purposes of this article through the personnel of the council or its con-

sultants or in cooperation with any public or private agency.

3. To attend all hearings for the preparation of the capital budget,

held pursuant to section one of article seven of the constitution.

4. To accept, with the approval of the governor, as agent of the state, any gift, grant, devise or bequest, whether conditional or unconditional (notwithstanding the provisions of section eleven of the state finance law), and including federal grants, for any of the pur-

* poses of this article. Any moneys so received may be expended by the council to effectuate any purpose of this article, subject to the same limitations as to approval of expenditures and audit as are prescribed for state moneys appropriated for the purposes of this article. Added L.1967, c. 167, eff. April 1, 1967.

§ 645. Compensation of members

Except as provided in section six hundred forty-six of this article. the members and advisory members of the council shall receive no compensation for their services, but shall be reimbursed for expenses not otherwise reimbursed actually and necessarily incurred in the performance of their duties under this article. Added L.1967, c. 167, eff. April 1, 1967.

Library references States \$=60(1).

C.J.S. States § 89 et seq.

§ 646. Chairman; employees

1. The chairman shall receive compensation fixed by the governor and shall be reimbursed for all expenses actually and necessarily incurred by him in the performance of his duties hereunder, within the amount made available by appropriation therefor. The chairman may appoint such officers, expert consultants, and other employees, as he may deem necessary, prescribe their duties, fix their compensation and provide for reimbursement of their expenses within amounts available

therefor by appropriation.

2. Notwithstanding any inconsistent provisions of this or any other law, general, special or local, no officer or employee of the state, or of any civil division thereof, shall be deemed to have forfeited or shall forfeit his office or employment or any benefits provided under the retirement and social security law by reason of his acceptance of membership on or chairman ship of the council; provided, however, a member or chairman who holds such other public office or employment shall receive no additional compensation for services rendered pursuant to this article, but shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of such services. Added L.1967, c. 167, eff. April 1, 1967.

§ 647. Assistance of other agencies

To effectuate the purposes of this article, the chairman of the council may request and receive from any department, division, board, bureau, commission or other agency of the state or any political subdivision thereof or any public authority such assistance, information and data as will enable the council properly to carry out its powers and duties hereunder. Added L.1967, c. 167, eff. April 1, 1967.

Library references

States \$=66. C.J.S. States §§ 58 et seq., 81.

ARTICLE 24—OFFICE OF EMPLOYEE RELATIONS [NEW]

Sec.

650. Statement of policy.

651. Definition.

Office of employee relations; director.

653. Powers and duties.

654. Actions by other officers, departments, boards, commissions or agencies.

Article added L.1969, c. 491, § 1, eff. June 1, 1969.

RULES GOVERNING PRACTICE AND PROCEDURE

before the

CRIME VICTIMS COMPENSATION BOARD

As amended on May 26, 1971

filed with Secretary of State June 14, 1971

Section 525.2

RULE II - FILING OF CLAIMS

1st amendment:

(b) A surviving spouse, <u>parent</u> or child of a victim of a crime who died as a direct result of such crime; and

RULE V - HEARINGS

Section 525.5

2nd amendment:

(d) The Board Member may direct medical examination of the claimant by a physician designated by him for this purpose. The claimant shall present himself to the physician named at the time and place designated. No representative of the claimant or any other interested party shall be present at the examination. A written report of such examination shall be filed by the examining physician with the Board and a copy mailed to the claimant or his attorney. The Physician's fee shall be paid by the Board. RULE VIII - AWARDS, EMERGENCY AWARDS AND MANNER OF PAYMENT

Section 525.8

4th amendment:

5. Any award made pursuant to this article shall be reduced by the amount of any payments received or to be received as a result of the injury (a) from or on behalf of the person who committed the crime, (b) under insurance payments mandated by law, (c) from public funds, (d) under any contract of insurance wherein the claimant is the insured or beneficiary, (e) as an emergency award (pursuant to section six hundred thirty of the statute).

Section 525.8

5th amendment:

7. If the Board or Board Member, as the case may be, finds that the claimant will not suffer serious financial hardship, as a result of the loss of earnings or support and the out-of-pocket expenses incurred as a result of the injury, if not granted financial assistance to meet such loss of earnings, support or out-of-pocket expenses, the Board or Board Member shall deny an award.

Section 525.8

6th amendment:

8(g) An amount not exceeding the victim's annual income.

Section 525.8

7th amendment:

9. In all cases, the Board shall, within the limitations of the law, render a decision which will as nearly as possible permit the claimant and/or his family to maintain a reasonable standard of living. Where out-of-pocket expenses and/or loss of earnings or support, would lower this standard of living, this may in the discretion of the Board be deemed serious financial hardship.

Nothing herein contained, however, shall be construed to mean that the claimant must be maintained in the same standard of living enjoyed prior to the injury or death.

RULE IX - DECISION

Section 525.9

8th amendment:

Following the first paragraph, the following amendment is inserted:

All claimants and/or attorneys must fully cooperate with the investigators, agents and representatives of the Board and the police in order to be eligible for an award. In the event that such cooperation is refused, the Board or Board Member may deny the claim.

RULES GOVERNING PRACTICE AND PROCEDURE

before the

CRIME VICTIMS COMPENSATION BOARD

As adopted on May 26, 1967 filed with Secretary of State June 1, 1967

AMENDED September 7, 1967 filed with Secretary of State October 11, 1967

AMENDED November 25, 1968 filed with Secretary of State November 27, 1968

RULES VIII - (Section 525.8) - AWARDS, EMERGENCY AWARDS AND MANNER OF PAYMENT is amended and reads as follows:

- 8(a) In determining such serious financial hardship, the Board or Board Member shall consider all of the financial resources of the claimant or claimants. The Board or Board Member shall exempt the following:
 - I. a homestead
 - II. personal property consisting of clothing and strictly personal effects
 - III. household furniture, appliances and equipment
 - IV. tools and equipment necessary for the claimant's trade, occupation or business
 - V. a family automobile
 - VI. life insurance except in death claims
- (b) The Board or Board Member, after taking into consideration all other financial resources, may exempt an amount not exceeding the victim's annual income.
- 9. In all cases, the Board shall, within the limitations of the law, render a decision which will as nearly as possible permit the claimant and/or his family to maintain their standard of living. Where out-of-pocket expenses and/or loss of earnings or support, would lower this standard of living, this may in the discretion of the Board be deemed serious financial hardship.

Nothing herein contained, however, shall be construed to mean that the claimant must be maintained in the same standard of living enjoyed prior to the injury or death.

RULES GOVERNING PRACTICE AND PROCEDURE

before the

CRIME VICTIMS COMPENSATION BOARD

As adopted on May 26, 1967 As Amended on September 7, 1967

By virtue of the authority vested in it by Section 623, subdivision 3 of the Executive Law, the Crime Victims
Compensation Board hereby establishes, adopts and promulgates the annexed Rules I through XV inclusive as the Rules Governin Practice and Procedure before the Crime Victims Compensation Board, effective on the date that such rules are filed in the office of the Department of State of the State of New York in accordance with Article IV, Section 8 of the Constitution of the State of New York.

RULE

Section 525.1 I.

Section 525.2	II.	FILING OF CLAIMS
Section 525.3	III.	ASSIGNMENT AND INVESTIGATION OF CLAIM
Section 525.4	IV.	NOTICE OF HEARING
Section 525.5	V.	HEARINGS
Section 525.6	VI.	REPRESENTATION BY AN ATTORNEY
Section 525.7	VII.	SUBPOENAS AND SUBPOENAS DUCES TECUM: DEPOSITIONS
Section 525.8	VIII	AWARDS, EMERGENCY AWARDS, AND MANNER OF PAYMENT
Section 525.9	IX.	DECISION
Section 525.10	х.	CONSIDERATION OF DECISION BY FULL BOARD
Section 525.11	XI.	JUDICIAL REVIEW
Section 525.12	XII.	AMENDMENT OF RULES
Section 525.13	XIII.	PUBLICATION OF CLAIMS
Section 525.14	xIV.	AVAILABILITY OF RULES
Section 525.15	xv.	CONSTRUCTION OF RULES
Section 525.16	XVI	QUORUM
Section 525.17	XVII	MEETINGS

DEFINITIONS

Section 525.1 RULE I - DEFINITIONS

As used in these rules for the purpose of this article:

- . "Board" shall mean the Crime Victims Compensation Board.
- "Claimant" shall mean the person filing a claim pursuant to this article.
- 3. "Crime" shall mean an act committed in New York State which would, if committed by a mentally competent criminally responsible adult, who has no legal exemption or defense, constitute a crime as defined in and proscribed by the Penal Law, provided, however, that no act involving the operation of a motor vehicle which results in injury shall constitute a crime for the purposes of this article unless the injuries were intentionally inflicted through the use of a vehicle.
- 4. "Family", when used with reference to a person, shall mean
 - (a) Any person related to such person within the third degree of consanguinity or affinity,
 - (b) Any person maintaining a sexual relationship with such person, or
 - (c) Any person residing in the same household with such person.
- 5. "Victim" shall mean a person who suffers personal physical injury as a direct result of a crime.

Section 525.2 RULE II - FILING OF CLAIMS

- 1. A claim may be filed by
 - (a) A victim of a crime;
- (b) A surviving spouse or child of a victim of a crime who died as a direct result of such crime; and
- (c) Any other person dependent for his principal support upon a victim of a crime who died as a direct result of such crime.

- NOTE: A person who is criminally responsible for a crime upon which a claim is based or an accomplice of such person or a member of the family of such person shall not be eligible to receive an award with respect to such claim.
- 2. If the person eligible to receive an award is a minor, the claim may be filed on his behalf by his parent or guardian or any other person having legal custody of the said minor.
- 3. A claim must be filed by the claimant not later than ninety days after the occurrence of the crime upon which such claim is based, or not later than ninety days after the death of the victim, provided, however, that upon good cause shown, the Board may extend the time for filing for a period not exceeding one year after such occurrence.
- 4. Claims must be filed on official forms, which includes an authorization and subrogation agreement, in the office of the Secretary of the Board at 855 Central Avenue, Albany, New York 12206, either personally or by mail.

Section 525.3

RULE III - ASSIGNMENT AND INVESTIGATION OF CLAIM

- 1. A claim, when accepted for filing, shall be assigned by the Chairman to himself or to another Member of the Board. All claims arising from the death of an individual as a direct result of a crime, shall be considered together by a single Board Member.
- 2. The Board Member to whom such claim is assigned shall examine the papers filed in support of such claim. The Board Member shall thereupon cause an investigation to be conducted into the validity of such claim.
- 3. The Board Member to whom the claim is assigned may decide such claim on the basis of the papers filed in support thereof and the report of the investigation of such claim.

If the Board Member is unable to decide such claim upon the basis of such papers and such report, he shall order a hearing.

Section 525.4 RULE IV - NOTICE OF HEARING

The claimant, his attorney, and all material and necessary parties, shall be notified in writing of the time, place and purpose of any hearing, as well as the evidence to be produced by the claimant. The notice shall be mailed not less than ten days before the date of the hearing. In the discretion of the Board Member hearing the claim, any issue may be considered and determined although not indicated in the notice of hearing, if the administration of justice will thereby be substantially served.

Section 525.5 RULE V - HEARINGS

- (a) The claimant may be present at the hearing and shall be allowed to present testimony or cross-examine witnesses in person or by counsel.
- (b) The claimant shall have the burden of proof. The parties or their representatives shall be allowed a reasonable time for presentation of oral argument or for the filing of briefs or other statements or depositions as to the facts or the law.
- (c) The Board Member may receive as evidence any statement, document, information or matter that he finds in his discretion is relevant and of such a nature as to afford the parties a fair hearing.

The Board Member may also accept hospital records and reports and physician's reports as proof of the injury sustained without requiring the presence of the attending physician at the hearing.

(d) The Board Member may direct medical examination of the claimant by a physician designated by him for this purpose.

The claimant shall present himself to the physician named at the time and place designated. No representative of the claimant or any other interested party shall be present at the examination. A written report of such examination duly sworn to shall be filed by the examining physician with the Board and a copy mailed to the claimant or his attorney. The physician's fee shall be paid by the Board.

- (e) All hearings shall be conducted in an orderly manner in order to ascertain the substantial rights of the parties. All witnesses shall testify under oath (or by affirmation) and a record of the proceedings shall be transcribed. The Board Member and/or the Board's attorney may examine the claimant and all witnesses. The Board shall not be bound by common law or statutory rules of evidence, or by technical or formal rules of procedure.
- (f) Hearings may be adjourned on motion of the Board Member hearing the claim or upon timely request of any interested party. The failure of the claimant to appear at the time of the hearing may in the discretion of the Board Member, upon good cause shown, be excused and a new hearing scheduled.
- (g) Hearings generally shall be open to the public except that the Board Member may in his discretion hold the hearing in private in the following instances:
 - Prosecution against the alleged perpetrator of the crime is pending and no trial has been had.
 - In an alleged sexual offense where the welfare and interest of the victim or his dependents may be adversely effected.
 - 3. In the interest of public morality.
 - Where prosecution has resulted in an acquittal or a dismissal on technical grounds.
- (h) Prior to decision by the Board Member hearing the claim, on application of the claimant or his attorney (sub-

mitted in affidavit form) or upon motion of the Board Member, the case may be reopened for further investigation, and if the Board Member finds it necessary, further testimony. The Board may, on its own motion, reinvestigate or reopen cases at any time, as the Board deems necessary.

(i) A hearing shall be held at a place designated by the Chairman of the Board having due regard to the convenience of the parties and witnesses.

Section 525.6

RULE VI - REPRESENTATION BY AN ATTORNEY

Claimants have the right to be represented before the Board or any member thereof at all stages of the proceeding, by an attorney at law duly licensed to practice in the State of New York.

The attorney shall file a notice of appearance, and, when appropriate, a notice of substitution, prior to or at his first appearance. The attorney's fees must be approved by the Board Member to whom the claim is assigned and the Member may require a written statement of services rendered or an affidavit of services rendered. Whenever an award is made to a claimant who is represented by an attorney and a fee is requested, the Board Member shall approve a fee commensurate with the services rendered and having due regard for the financial status of the claimant. In no case shall the fee be based solely on the amount of the award.

If any party designates an attorney at law to represent him and such attorney has executed and filed with the Board a notice of appearance in the matter, in substantially the form annexed hereto; such notice shall remain in effect until

- The party represented files with the Board a written revocation of the attorney's authority; or
 - 2. The attorney files with the Board a written

statement of his withdrawal from the case; or

- The attorney states on the record at a Board hearing that he is withdrawing from the case; or
- 4. The Board receives notice of the attorney's death or disqualification.

After a filing of a notice of appearance in accordance with this rule, and so long as it may remain in effect, copies of all written communications or notices in the matter to the party shall be sent to such attorney in lieu of the party so represented or to both the party and his attorney. Service upon the attorney shall be deemed service on the party he represents.

The notice of appearance shall be in the following form:

STATE OF NEW YORK EXECUTIVE DEPARTMENT CRIME VICTIMS COMPENSATION BOARD

In the matter of the claim of

(name)

Case No.

before the CRIME VICTIMS COMPENSATION BOARD

NOTICE OF APPEARANCE

	S	

PLEASE TAKE NOTICE that, claims	int
above named, hereby appears in the above-entitled proceeding,	
that I have been retained as attorney for the said claimant here	in,
and that I hereby request service upon me of a copy of all	
subsequent written communications or notices to said party in	
this proceeding (other than subpoenas and subpoenas duces	
tecum).	

Dated: ______, New York

Yours, etc.,

(Name of attorney) Attorney for Office and P. O. Address:

(Telephone Number)

TO: CRIME VICTIMS COMPENSATION BOARD 855 Central Avenue Albany, New York 12206 Section

525.7 RULE VII - SUBPOENAS AND SUBPOENAS DUCES TECUM: DEPOSITIONS

The Board or any member thereof shall issue subpoenas and subpoenas duces tecum, either on its or his own
instance, or, upon written application of any party made not
less than five days prior to the hearing. Subpoenas and subpoenas duces tecum shall comply with the Civil Practice Laws
and Rules. Their issuance at the instance of a party shall depend upon a showing of the necessity therefor. A written
request shall also designate the names and addresses of witnesses and the location of documents, books, payrolls, personnel
records, correspondence, papers, or any other evidence relating
to the claim being heard. The Board Member hearing the claim
may in his discretion waive the five-day provision.

Where a subpoenas or a subpoena duces tecum is issued at the instance of the claimant or other necessary party, the cost of services and witnesses and mileage fees shall be borne by the party at whose request it is issued. Where a subpoena or a subpoena duces tecum is issued at the instance of theBoard or a Board Member thereof, such services and witnesses and mileage fees shall be borne by the Board. Such witnesses and mileage fees shall be the same as are paid at trials in the New York State Supreme Court.

The Board or any Member thereof on its or his own motion or on the application of the claimant, shall whenever necessary, and upon such terms and conditions as it or he may determine, take or cause to be taken affidavits and depositions of witnesses residing within or without the state.

Section

525.8 RULE VIII - AWARDS, EMERGENCY AWARDS, AND MANNER OF PAYMENT

 No award shall be made on a claim unless the claimant has incurred a minimum out-of-pocket loss of one hundred dollars or has lost at least two continuous weeks earnings or support. Out-of-pocket loss shall mean unreimbursed and unreimbursable expenses or indebtedness reasonably incurred for medical care or other services necessary as a result of the injury upon which such claim is based.

- 2. No award shall be made unless the Board or Board Member, as the case may be, finds that (a) a crime was committed, (b) such crime directly resulted in personal physical injury to, or death of, the victim, and (c) police records show that such crime was promptly reported to the proper authorities; and in no case may an award be made where the police records show that such report was made more than forty-eight hours after the occurrence of such crime unless the Board, for good cause shown, finds the delay to have been justified.
- 3. Any award made pursuant to this article shall be in an amount not exceeding out-of-pocket expenses, including indebtedness reasonably incurred for medical or other services necessary as a result of the injury upon which the claim is based, together with loss of earnings or support resulting from such injury. If the injury causes death, the award shall include funeral, burial plot and marker cost, not exceeding \$1000.00.
- 4. Any award made for loss of earnings or support shall, unless reduced pursuant to other provisions of the statute, be in an amount equal to the actual loss sustained, provided, however, that no such award shall exceed one hundred dollars for each week of lost earnings or support, and provided further that the aggregate award for such loss shall not exceed fifteen thousand dollars.
- 5. Any award made pursuant to this article shall be reduced by the amount of any payments received or to be received as a result of the injury (a) from or on behalf of the person who committed the crime, (b) under insurance programs mandated by law, (c) from public funds, (d) as an emergency award (pursu-

ant to section six hundred thirty of the statute).

- 6. In determining the amount of an award, the Board or Board Member, as the case may be, shall determine whether, because of his conduct, the victim of such crime contributed to the infliction of his injury, and the Board or Board Member shall reduce the amount of the award or reject the claim altogether, in accordance with such determination; provided, however, that the Board or Board Member, as the case may be, may disregard for this purpose the responsibility of the victim for his own injury where the record shows that such responsibility was attributable to efforts by the victim to prevent a crime or an attempted crime from occurring in his presence or to apprehend a person who had committed a crime in his presence or had in fact committed a felony.
- 7. If the Board or Board Member, as the case may be, finds that the claimant will not suffer serious financial hardship, as a result of the loss of earnings or support and the out-of-pocket expenses incurred as a result of the injury, if not granted financial assistance to meet such loss of earnings, support or out-of-pocket expenses, the Board or Board Member shall deny an award. In determining such serious financial hardship, the Board or Board Member shall consider all of the financial resources of the claimant.
- 8. In determining serious financial hardship the Board standards shall exempt and not take into consideration
 - a. a homestead
 - personal property consisting of clothing and strictly personal effects.
 - c. household furniture, applicances and equipment
 - tools and equipment necessary for the claimant's trade, occupation or business
 - e. a family automobile

(amended)

f. life insurance in the face amount of \$1,000 for the claimant and a similar sum of \$1,000

for the claimant's spouse and each dependent child.

(amended)

- g. savings in an amount equal to one-half of the victim's annual income.
- 9. In all other cases, the Board shall, by its award attempt, within the limitations of the law, make an award which will as nearly as possible permit the claimant and/or his family to maintain their standard of living. Where out-of-pocket expenses and/or loss of earnings or support, would lower this standard of living, this may in the discretion of the Board be deemed serious financial hardship.

Nothing herein contained, however, shall be construed to mean that the claimant must be maintained in the same standard of living enjoyed prior to the injury or death.

10. Emergency Awards

No application for an emergency award shall be considered unless a claim has been filed with the Board. The claim and the application for the emergency award may be filed simultaneously.

Application for an emergency award may be made either by mail or in person upon an affidavit setting forth in detail the grounds therefor. The Board Member to whom the claim is assigned shall upon receipt of an application for an emergency award give preference to such application and shall expeditiously act thereon.

11. Manner of payment

The award shall be paid in a lump sum, except that in the case of death or protracted disability the award shall provide for periodic payments to compensate for loss of earnings or support. No award shall be subject to execution or attachment other than for expenses resulting from the injury which is the basis for the claim.

In cases in which the claimant is a minor the award may be made payable to the parent, natural guardian or the person with whom he resides or the Board Member may require a guardian duly appointed by a court of competent jurisdiction.

If there are two or more persons entitled to an award as a result of the death of a person which is the direct result of a crime, the Board Member shall apportion the award among the claimants in the proportion as he finds that the deceased victim contributed to their support.

In the event of a change of dependency of the claimant or any of them, either by marriage of a widow or otherwise, the Board may change the proportion and the amount of the payments to the claimant.

- 12. In death cases the Board shall at least every six months verify the dependency and financial circumstances of the claimants and upon finding a change the Board may reduce or increase the proportion of the allowance and award to the claimants as the circumstances warrant.
- 13. In protracted disability cases the Board shall at least every six months verify the disability of the claimant to determine whether he is entitled to continue to receive periodical payments either in the amount awarded or in a reduced amount.

Section 525.9 RULE IX - DECISION

After examining the papers filed in support of the claim and the report of investigation, and after a hearing, if any, the Board Member to whom such claim was assigned shall make a decision either granting an award, or denying the claim.

The Board Member making a decision shall file the same with the Secretary of the Board setting forth such decision and his reasons therefor. The Secretary shall thereupon notify the claimant and/or his attorney and furnish him a copy of such decision.

The decision shall have printed or typed thereon a

notice to the claimant. This notice shall be substantially written in the following language:

NOTICE TO CLAIMANT OR ATTORNEY

If you are dissatisfied with the decision of the Board Member who decided your claim, you may, within thirty days after receipt of the report of the decision, make an application in writing to the Board for consideration of the decision by the full Board. Your application should specify the grounds thereof, and should be addressed to the Board at its principal office.

CRIME VICTIMS COMPENSATION BOARD 855 Central Avenue Albany, New York 12206

Section 525.10

RULE X - CONSIDERATION OF DECISIONS BY FULL BOARD

- 1. The claimant may, within thirty days after receipt of the report of the decision of the Board Member to whom his claim was assigned, make an application in writing to the Board for consideration of such decision by the full Board.
- 2. Any member of the Board may, within thirty days after filing of the decision, make an application in writing to the Board for consideration of such decision by the full Board.
- 3. Upon receipt of an application pursuant to subdivision one or two of this Rule, the Board shall review the
 record and affirm or modify the decision of the Board Member
 to whom the claim was assigned. The action of the Board in
 affirming or modifying such decision shall be final. The
 Board shall file with the Secretary of the Board a written
 report setting forth its decision, and if such decision varies
 in any respect from the report of the Board Member to whom

the claim was assigned setting forth its reasons for such decision. If the Board receives no application pursuant to subdivision one or two of this Rule the decision of the Board Member to whom the claim was assigned shall become the final decision of the Board.

4. The Secretary of the Board shall promptly notify the claimant of the final decision and shall furnish the Attorney General and the Comptroller a copy of the final decision of the Board.

Section 525.11 RULE XI - JUDICIAL REVIEW

Upon a proceeding being instituted by the Attorney General, pursuant to the provisions of Section 629, the Board shall furnish a copy of thetranscript of the testimony to the Attorney General and to the claimant or his attorney.

Section 525.12 RULE XII - AMENDMENT OF RULES

New rules may be adopted and any rule may be amended or rescinded by the Board at a regular or special meeting, provided that notice of the proposed adoption, amendment or rescission has been given to all members of the Board at least seventy-two hours before the meeting at which action is to be taken.

New rules, amendments or rescissions shall become effective the date filed in the office of the Department of State of the State of New York.

Section 525.13 RULE XIII - PUBLICATION OF CLAIMS

The Board from time to time shall publish the record of claims but shall not divulge the name of the claimant or other interested parties.

Section 25.14

RULE XIV - AVAILABILITY OF RULES

The rules of the Board shall be available to the public at all offices of the Crime Victims Compensation Board.

Section 525.15

RULE XV - CONSTRUCTION OF RULES

These rules shall be liberally construed to accomplish the purpose of the law creating the Crime Victims Compensation Board and the policies of the Board.

RULES GOVERNING PRACTICE AND PROCEDURE

before the

CRIME VICTIMS COMPENSATION BOARD

As adopted on May 26, 1967 filed with Secretary of State June 1, 1967

AMENDED September 7, 1967 filed with Secretary of State October 11, 1967

RULE VIII - (Section 525.8) - AWARDS, EMERGENCY AWARDS AND MANNER OF PAYMENT is amended and reads as follows

- 8. (f) life insurance except in death claims
 - (g) savings in an amount equal to the victi annual income.

RULE XVI - (Section 525.16)

The Chairman and one other Member of the Board shall constitute a quorum. Where opinion is divided, a major shall prevail. Where opinion is divided and only the Chairman and one other Member is present, the opinion of the Chairman shall prevail.

RULE XVII - (Section 525.17)

Meetings shall be held upon notice by the Chairman at such time and place as he shall direct.

TASK FORCE REPORT: CRIME AND ITS IMPACT-AN ASSESSMENT

(Task Force on Assessment—The President's Commission on Law Enforcement and Administration of Justice)

THE VICTIMS OF CRIME

One of the most neglected subjects in the study of crime is its victims: the persons, households, and businesses that bear the brunt of crime in the United States. Both the part the victim can play in the criminal act and the part he could have played in preventing it are often overlooked. If it could be determined with sufficient specificity that people or businesses with certain characteristics are more likely than others to be crime victims, and that crime is more likely to occur in some places than in others, efforts to control and prevent crime would be more productive. Then the public could be told where and when the risks of crime are greatest. Measures such as preventive police patrol and installation of burglar alarms and special locks could then be pursued more efficiently and effectively. Individuals could then substitute objective estimation of risk for the general apprehensiveness that today restricts—perhaps unnecessarily and at best haphazardly—their enjoyment of parks and their freedom of movement on the streets after dark.

Although information about victims and their relationships to offenders is recorded in the case files of the police and other criminal justice agencies, it is rarely used for systematic study of those relationships or the risks of victimization. To discover variations in victimization rates among different age, sex, race, and income groupings in the population, the Task Force analyzed information on these items obtained in the national survey by NORC.

Rather striking variations in the risk of victimization for different types of crime appear among different income levels in the population. The results shown in table 11 indicate that the highest rates of victimization occur in the lower income groups when all index offenses except homicide are considered together. The risks of victimization from forcible rape, robbery, and burglary, are clearly concentrated in the lowest income group and decrease steadily at higher income levels. The picture is somewhat more erratic for the offenses of aggravated assault, larceny of \$50 and over, and vehicle theft. Victimization for larceny increases sharply in the highest income group.

National figures on rates of victimization also show sharp differences between whites and nonwhites (table 12). Nonwhites are victimized disproportionately

by all Index crimes except larceny \$50 and over.

The rates for victimization shown for Index offenses against men (table 13) are almost three times as great as those for women, but the higher rates of burglary, larceny and auto theft against men are in large measure an artifact of the survey procedure of assigning offenses against the household to the head of the household.

TABLE 11.—VICTIMIZATION BY INCOME
[Rates per 100,000 population]

	Income					
Offenses	\$0 to \$2,999		\$6,000 to \$9,999	Above \$10,000		
Total	2, 369	2, 331	1, 820	2, 237		
orcible rape	76	49	10	17 34 252 790		
Robbery	172	121	48	34		
Aggravated assault	229	316	144	252		
Burglary	1, 319	1, 020	867	790		
arceny (\$50 and over)	420	619	549	925		
arčený (\$50 and over)	153	206	202	219		
Number of respondents	(5, 232)	(8, 238)	(10, 382)	(5, 946)		

Source: Philip H. Ennis, "Criminal Victimization in the United States: A Report of a National Survey," (Field Survey II President's Commission on Law Enforcement and Administration of Justice. (Washington: U.S. Government Printing Office, 1967), adapted from table 14, p. 31. Hereinafter referred to as the NORC study.

TABLE 12.-VICTIMIZATION BY RACE

[Rates per 100,000 population]

Offenses	White	Nonwhite
Total	1, 860	2, 592
Forcible rape	22 58	82 207 347
Aggravated assault Burglary	186 822	347 1 306
Larceny (\$50 and over) Motor vehicle theft	608 164	1, 306 367 286
Number of respondents	(27, 484)	(4, 902)

Source: NORC study, adapted from table 16, p. 33.

TABLE 13.-VICTIMIZATION BY AGE AND SEX

[Rates per 100,000 population]

Offense -	Male							
Officials	10-19	20-29	30-39	40-49	50-59	60 plus	A II ages	
Total	951	5, 924	6,231	5, 150	4, 231	3, 465	3, 091	
Robbery Aggravated assault Burglary Larceny (\$50 and over) Motor vehicle theft	61 399 123 337 31	257 824 2,782 1,546 515	337 3,649 1,628 505	210 263 2,365 1,839 73	181 181 2, 297 967 605	98 146 2,343 683 195	112 287 1,583 841 268	
_				Female				
Total	334	2,424	1, 514	1,908	1, 132	1,052	1,059	
Forcible rape Robbery Aggravated assault Burglary Larceny (\$50 and over) Motor vehicle theft	91 0 91 30 122 0	238 238 333 665 570 380	104 157 52 574 470 157	48 96 286 524 620 334	0 60 119 298 536 119	81 40 445 405 81	83 77 118 314 337 130	

Source: NORC study, adapted from table 17, pp. 34-35.

The victimization rate for women is highest in the 20 to 29 age group. In fact the victimization rates for women for all the index offenses reported, with the exception of larceny, are greatest in this age group. The concentration of offenses against women in this age group is particularly noticeable for forcible rape and robbery and much less apparent in aggravated assault and the property crimes.

For men the highest Index total rate falls in the 30–39 age category, a result heavily influenced by the burglaries assigned to men as heads of households. Actually, all the Index property offenses against men show peak rates in the older age categories. This is probably due not only to their role as household heads but also to the fact that at older ages they are likely to possess more property to be stolen. Crimes against the person, such as aggravated assault and robbery, are committed relatively more often against men who are from 20 to 29 years of age.

Thus, the findings from the national survey show that the risk of victimization is highest among the lower income groups for all Index offenses except homicide, larceny, and vehicle theft; it weighs most heavily on the nonwhites for all Index offenses except larceny; it is borne by men more often than women, except, of course, for forcible rape; and the risk is greatest for the age category 20 to 29, except for larceny against women, and burglary, larceny, and vehicle theft against men.

Victim-offender relationships in crimes of violence

The relations and interactions of victims and offenders prior to and during

the criminal act are important facts to know for understanding and controlling crime and assessing personal risks more accurately. The relationships most often studied have been those involving crimes of violence against the person, especially homicide and forcible rape. Typical of the findings of these inquiries are the results of an analysis of criminal homicides in Philadelphia between 1948 and 1952.24 This study clearly demonstrated that it is not the marauding stranger who poses the greatest threat as a murderer. Only 12.2 percent of the murders were committed by strangers. In 28.2 percent of the cases studied, the murderer was a relative or a close friend. In 24.7 percent he was a member of the family. The murderer was an acquaintance of the victim in 13.5 percent of the cases. These findings are very similar to those reported nationally in the UCR.

"In 1965 killings within the family made up 31 percent of all murders. Over one-half of these involved spouse killing spouse and 16 percent parents killing children. Murder outside the family unit, usually the result of altercations among acquaintances, made up 48 percent of the willful killings. In the latter category romantic triangles or lovers' quarrels comprised 21 percent and killings resulting from drinking situations 17 percent. Felony murder, which is defined in this program as those killings resulting from robberies, sex motives, gangland slayings, and other felonious activities, made up 16 percent of these offenses. In another 5 percent of the total police were unable to identify the reasons for the killings; however, the circumstances were such as to suspect felony murder." 25

Unfortunately, no national statistics are available on relationships between victims and offenders in crimes other than criminal homicide. However, the District of Columbia Crime Commission surveyed a number of other crimes. Its findings on victim-offender relationships in rape and aggravated assault closely

resemble those for murder:

"Almost two-thirds of the 151 [rape] victims surveyed were attacked by persons with whom they were at least casually acquainted. Only 36 percent of the 224 assailants about whom some identifying information was obtained were complete strangers to their victims: 16 (7 percent) of the attackers were known to the victim by sight, although there had been no previous contact. Thirty-one (14 percent) of the 224 assailants were relatives, family friends or boyfriends of the victims, and 88 (39 percent) were either acquaintances or neighbors." 26

And among 131 aggravated assault victims, only 25 (19 percent) were not

acquainted with their assailants:

"Fourteen (11 percent) of the victims were attacked by their spouses, 13 (10 percent) were attacked by other relatives, and 79 (60 percent) were assaulted by persons with whom they were at least casually acquainted." 2

Again, as in murder, a substantial number (20 percent) of the aggravated assaults surveyed by the District of Columbia Crime Commission involved a

victim and offender who had had trouble with each other before.28

Another source of the concern about crime, in addition to its violence and its frequency, is the extent to which it is assumed to involve interracial attacks. Therefore a key question in any assessment of the crime problem is to what extent men or women of one racial group victimize those of another. For evidence on the way in which the race and sex of victims and offenders might affect the probability of criminal assault, the Commission, with the cooperation of the Chicago Police Department, studied 13,713 cases of assaultive crimes against the person, other than homicide.29

As shown in table 14, it is Negro males and females who are most likely to be victimized in crimes against the person. A Negro man in Chicago runs the risk of being a victim nearly six times as often as a white man, a Negro woman nearly

eight times as often as a white woman.

The most striking fact in the data is the extent of the correlation in race between victim and offender. Table 14 shows that Negroes are most likely to assault Negroes, whites most likely to assault whites. Thus, while Negro males account

²⁴ Marvin E. Wolfgang, "Patterns of Criminal Homicide" (Philadelphia: University of Pennsylvania Press, 1958). See also Menachem Amir, "Patterns of Rape and the Female Victim," (unpublished Ph. D. thesis, The University of Pennsylvania, 1965); Albert J. Reiss, Jr., "Studies in Crime and Law Enforcement in Major Metropolitan Areas" (Field Surveys III, President's Commission on Law Enforcement and Administration of Justice, Washington: U.S. Government Printing Office, 1967), vol. 1, sec. 1, table 6, p. 35. Hereinafter referred to as the Reiss studies.

²⁵ "UCR, 1965," pp. 6–7.

²⁶ D.C. Crime Commission Report, supra note 9, at p. 53.

²⁷ Id. at p. 76.

²⁸ Ibid.

²⁸ Relss studies, supra note 24, vol. 4, sec. 1, pp. 39, 70.

²⁹ Reiss studies, supra note 24, vol. 1, sec. 1, pp. 38-72.

for two-thirds of all assaults, the offender who victimizes a white person is most

likely also to be white.

The President's Commission on Crime in the District of Columbia discovered similar racial relationships in its 1966 survey of a number of serious crimes. Only 12 of 172 murders were interracial.30 Eighty-eight percent of rapes involved persons of the same race.31 Among 121 aggravated assaults for which identification of race was available, only 9 percent were interracial.32 Auto theft offenders in the District are three-fourths Negroes, their victims two-thirds Negroes.³³ Robbery, the only crime of violence in which whites were victimized more often than Negroes, is also the only one that is predominantly interracial: in 56 percent of the robberies committed by Negroes in the District of Columbia, the victims are white.34

TABLE 14.—VICTIM-OFFENDER RELATIONSHIPS BY RACE AND SEX IN ASSAULTIVE CRIMES AGAINST THE PERSON (EXCEPT HOMICIDE)

	Offenses attributable to-				
	White offenders		Negro offenders		A11.1
_	Male	Female	Male	Female	All types of offenders
Victim rate for each 100,000: ¹ White males White females Negro males Negro females Total population ¹	201 108 58 21 130	14 3 3 10	129 46 1,636 1,202 350	4 6 256 157 45	342 175 1,953 1,382 535

¹ The rates are based only on persons 14 years of age or older in each race-sex category. The "total population" category in addition excludes persons from racial groups other than Negro or white.

The high proportions of both acquaintance between victim and offender and the intraracial character of offenses are further borne out by the findings of another study developed for the Commission. Analyzing data obtained from the Seattle Police Department, this study compared the census tract where the crime occurred with the tract (or other place) in which the offender lived. It found that a relatively large percentage of crimes against persons, as contrasted with crimes against property, had been committed in the offender's home tract-an area likely to be racially homogeneous and in which he is most likely to be known at least by sight.35

This analysis shows that a failure to collect adequate data on victim-offender relationships may lead to a miscalculation of the source and nature of the risk of victimization. At present the Nation's view of the crime problem is shaped largely by official statistics which in turn are based on offenses known to the police and statistics concerning arrested offenders; they include very little about victims.

Place where victimization occurs

Crime is more likely to occur in some places than in others, just as some persons are more likely than others to be the victims of criminal offenders. The police often distribute their preventive patrols according to spot maps that locate the time and place of occurrence of different types of crimes. Such information, however, has not been developed well enough to inform the public of the places it should avoid.

A well-designed information system should also provide crime rate figures for

different types of business premises in different areas of the city.

Victimization rates based upon the number of drugstores, cleaning establishments, gas stations, taxicabs, banks, supermarkets, taverns, and other businesses in a neighborhood would furnish better indicators of the likelihood of crime in that neighborhood than exist at present. Determining such rates would require

Source: Special tabulation from Chicago Police Department, Data Systems Division, for period September 1965 to March 1966, reported in Reiss studies, supra note 24, vol. 1, sec. 1, adapted from table 6, pp. 35-36.

³⁰ D.C. Crime Commission Report, supra note 9, at p. 42.

³¹ Id. at p. 54. 32 Id. at p. 76. 33 Id. at p. 101.

 ³⁴ Id. at p. 56.
 35 Reiss studies, supra note 24, at pp. 203–216.

enumerating premises of different types and locating them by area. This information would help to test the effectiveness of control measures and to identify the nature of increases in crime by making it possible to detect changes in the pattern of risk for various businesses. It would also permit more refined calculations of risk for insurance purposes and guide the placement of alarm systems and other crime prevention devices.

The study of victimization of individuals carried out in cooperation with the Chicago Police Department recorded the types of premises for all major crimes against the person except homicide.36 Table 15 classifies victims by sex in relation to the place where the offense occurred. For assaultive crimes against the person, the street and the home are by far the most common places of occurrence. Men are more likely to be victimized on the street, and women and more likely to be victimized in residences.

TABLE 15.-VICTIMIZATION BY SEX AND PLACE OF OCCURRENCE FOR MAJOR CRIMES (EXCEPT HOMICIDE) AGAINST THE PERSON

(In percent)

	Victims of major crimes against person			
Place of occurrence	Male	Female		
School property	3, 2	2.4		
Residence		46.1		
Transport property	1. 4	. 4		
Taxis and delivery trucks	2.6			
Businesses	3.2	2.8		
Taverns and liquor stores	AC D	30. 7		
Street	0	. 5		
Parks	16.0	16.0		
All other premises	10.0	10.0		
Total percent	100.0	100.0		
Total number		(5, 666)		

Source: Special tabulation from Chicago Police Department, Data Systems Division, for period September 1965 to March 1966, adapted from Reiss studies, supra note 24, vol. 1, sec. 1, table 34, p. 149.

The findings in general are closely related to the characteristic patterns of interaction among men and women in our society. Men are more likely to meet one another outside the home. A substantial portion of assaults arises from drinking—the tavern is the third most common setting for men to be victims of assault and battery-and some of the conflicts among drunks later erupt into street fights. Men and women more frequently engage in conflicts with each other in domestic settings.

Compensation to victims of crime

Programs granting public compensation to victims for physical injuries from violent crimes have aroused increased interest in recent years. The community has evidenced concern for the plight of victims of muggings, stabbings, and other violence. In the absence of such programs victims generally suffer losses that are not compensated in any way. Their civil remedies are most likely to be unsuccessful because of the poor financial condition and prospects of most offenders. And the criminal law generally makes no effort to use its sanctions to insure restitution to the victim. Indeed it often aggravates the victim's problem by incarcerating the offender, thus preventing him from earning money to make

Two philosophies underlie the recent movements for victim compensation. The first argues that the government is responsible for preventing crime and therefore should be made responsible for compensating the victims of the crimes it fails to prevent. The second approach, an extension of welfare doctrines, rests on the belief that people in need, especially those in need because they have been victimized by events they could not avoid, are entitled to public aid.³⁷

The first modern victim-compensation programs were established in New Zealand and Great Britain in 1964. California's program, which became effective in the beginning of 1966, was the first in the United States. Only victims with

 $^{^{30}}$ Id. at pp. 123-169. 37 Gilbert Geis, "State Aid to Victims of Violent Crime," published in appendix B of this volume.

limited financial resources qualify for compensation under this program. New York's victim-compensation bill, enacted in 1966, also provides compensation only for those who would suffer "serious financial hardship" as a result of the crime. Various Federal victim-compensation bills, now before the Congress, have yet to receive public hearings. The Commission believes that such hearings would provide a national forum for a much needed debate over the philosophy, assumptions, and potential advantages and disadvantages of such programs generally, and the relative merits and design of a program on the Federal level in particular.

The Commission has been impressed by the consensus among legislators and law enforcement officials that some kind of State compensation for victims of violent crime is desirable. Recent public opinion polls indicate that a considerable majority of the public is in favor of victim compensation.³⁸ The Commission believes that the general principle of victim compensation, especially to persons who suffer injury in violent crime, is sound and that the experiments now being

conducted with different types of compensation programs are valuable.

Commercial establishments and organizations as victims of crime

It is very difficult to discover the exact extent to which businesses and organizations are the victims of crime. Few attempts are made to keep systematic records or report such crimes to any central place. Police agencies do not ordinarily separate the crimes against individuals from those against organizations. It was not possible in the short time available to the Commission to undertake a systematic census of victimization of different types of industrial, business, professional, religious, or civic organizations throughout the Nation. This task ought to be undertaken, and some assessment procedure developed, using reports, special sample surveys or similar devices.

The Commission was able to make a pilot survey, however, of a sample of neighborhood businesses and organizations in eight police precincts in Chicago, Washington, and Boston. The objective was to discover through interviews what types of victimization businesses and organizations had experienced from crimes such as burglary, robbery, shoplifting, passing of fraudulent checks.

and employee theft.

Burglary and Robbery. Reports to the UCR indicate that nationally about half of all burglaries in 1965 were nonresidential, and that the average worth of the property stolen in such burglaries was about \$225.39 In the Commission survey almost one of every five businesses and organizations in the eight neighborhood police precincts surveyed was burglarized at least once during the oneyear period covered by the survey. Considering only those that were burglarized, 62 percent had from two to seven burglaries.

In both Chicago and Washington, but for some reason not in Boston, the burglary victimization rates were highest in the districts where the overall crime rates were highest. Precinct 13 in the District of Columbia, for example, had a victimization rate of 51.8 per 100 organizations—nearly twice that of the precinct with the fewest burglaries-and a third of all the businesses and

organizations sampled in that area had been victimized.41

Nationally, reports to the UCR indicate that in 1965 9 percent of all robberies were of service stations or chainstores, almost 1 percent were of banks, and more than 20 percent were of other types of commercial establishments. The average value of the property reported stolen varies from \$109 for service sta-

tion robberies to \$3,789 for bank robberies.42

In the Commission survey the picture that emerges for victimization by robbery is similar to that for burglary, which occurs more frequently. Among the organizations that were robbed, 80 percent reported only one robbery but 2 percent had as many as five.43 While any business in a high crime area is obviously in danger, it appears that some businesses, like some people, are more likely than others to be victimized by crime. Clearly, the reasons for the differences need investigation as guides in prevention. The findings of the Presi-

³⁸ See the Gallup poll, Oct. 29, 1965, where 62 percent of the public were in favor of compensation for the victims of crime. Also, the national survey conducted by NORC for the Commission indicated that 56 percent of the sample interviewed were in favor of compensation for victims. See NORC study, supra, source note table 11, p. 69.

³⁹ "U.C.R., 1965," supra note 5, p. 11.

⁴⁰ Reiss studies, supra note 24, pp. 99, 100, 103.

⁴¹ Ibid. 42 "U.C.R., 1965," supra note 5, p. 11. 48 Reiss studies, supra note 24, pp. 99, 100, 103.

dent's Commission on Crime in the District of Columbia with respect to the circumstances of housebreaking are suggestive of the way risks vary:

"In 21 (7 percent) of the 313 commercial burglaries surveyed housebreakers entered through unlocked doors and in 70 instances (22 percent) through unlocked windows. In 111 instances the housebreakers broke windows to gain entry, and locks were forced in 95. A total of 105 of the commercial establishments victimized were reported to have had burglar-resistant locks; 65 of these establishments, however, were entered other than by tampering with the lock. Sixty-four percent of the burglarized commercial establishments were located on the first floor." 44

Shoplifting. Shoplifting usually involves the theft of relatively small and inexpensive articles, although the professional shoplifter may steal expensive furs, clothes, and jewelry. It is heaviest in the chainstores and other larger stores which do the most retail business. However, it is the smaller establishments, particularly those that operate on a low margin of profit, to which shop-

lifting may make the difference between success and failure.

In the Commission survey, 35 percent of the neighborhood wholesale and retail establishments surprisingly reported no problem with shoplifting, while sizable percentages of other types of businesses, such as construction companies (30 percent), manufacturers of nondurables (33 percent), finance, insurance, and real estate firms (25 percent), which might not be expected to have any problem, reported some shoplifting difficulties. The average amount of shoplifting experienced by the nontrade establishments was considerably less than that for retail establishments.45

As one might expect, the highest rates of shoplifting were reported in the high crime rate districts. The most common items carried off by shoplifters were food, liquor or beer, clothing and footwear, and miscellaneous small items worth less than \$10.46 However, it is the total volume, rather than individual acts, that makes shoplifting a serious problem for most commercial enterprises.

Nationally most large retail businesses estimate their overall inventory shrinkage due to shoplifting, employee theft, and accounting errors at between 1 and 2 percent of total inventory. Experts in industrial and commercial security estimate that 75 to 80 percent of the inventory shrinkage is probably attributable to some type of dishonesty. 47 Among the 47 percent of neighborhood businesses found by the Commission survey to have high rates of shoplifting, 60 percent placed their losses at less than 2 percent of total inventory; another 28 percent estimated they had lost between 2 and 6 percent. Surprisingly, 23 percent of all businesses in the survey were unable to give any estimate at all of the amount of their losses that might be due to shoplifting."

Employee Theft. According to security experts for retail and other commercial establishments, theft by employees accounts for a considerably larger volume of theft than shoplifting.49 Theft of merchandise or equipment by employees is particularly hard to control because detection is so difficult. Employees have opportunities for theft every working day, whereas the shoplifting customer cannot steal merchandise regularly from the same establishment without arousing

suspicion.

Employee theft is also a problem in many industrial concerns. A recent survey by the National Industrial Conference Board of 473 companies indicated that 20 percent of all companies and nearly 30 percent of those with more than 1,000 employees had a serious problem with employee theft of tools, equipment, materials or company products. More than half of the companies with a problem of employee theft indicated trouble with both white and blue collar workers.50

In neighborhood establishments surveyed by the Commission only 14 percent reported the discovery of any employee dishonesty. Among those, 40 percent estimated losses at no more than \$50 a year. Most managers or owners surveyed attempted to establish the honesty of employees before hiring them. Nearly onethird made an effort to check references or to clear the employee with the local police department but 74 percent did not report to the police the discovery of

⁴⁴ D.C. Crime Commission Report, supra note 9, p. 86.

⁴⁵ Reiss studies, supra note 40.

⁴⁶ Ibid.

⁴⁷ See chapter 3, "The Economic Impact of Crime."
48 Reiss studies, supra note 40.
49 Supra note 47.

⁵⁰ National Industrial Conference Board, Division of Personnel Administration, "Personnel Practices in Factory and Office" (New York: National Industrial Conference Board, Inc., 1964), p. 140.

theft by their own employees, prefering to discharge the employee or handle the matter in some other way by themselves.⁵¹

Crime against public organizations and utilities

Public organizations and utilities are repeatedly victimized by crime. While some of the crime committed against these organizations is reported to the police, it is not clear just how much goes unreported and how widespread it is.

To obtain some estimation, the Commission surveyed 48 such organizations in Boston, Chicago, and Washington with special attention to the police districts in

which other surveys were being conducted.52

The most prevalent and persistent problem reported was vandalism of buildings and equipment. Telephone companies, electric companies, schools, libraries, traffic and highway departments, parks, public transportation, and housing all are victims. Estimates of damage ranging up to \$200,000 a year were quoted for such facilities as public housing, transportation, public parks, and recreation facilities in schools. The public school system in Washington, D.C., for example, provided data for 1965 showing a total of 26,500 window panes broken and replaced at a cost of \$118,000. A similar report was received in Boston.

Larceny was also a frequently mentioned problem, involving such thefts as stealing loose equipment and personal possessions, theft from coin meters, and breaking and entering. Some organizations make a distinction between amateur and professional theft. For example, the telephone companies distinguished between the organized coinbox larceny using forged keys and the amateur forcible entry involving damage to the equipment. Employee theft was not reported as a serious problem except in hospitals where it represents the most common reason

for the apprehension and discharge of employees.

Many public facilities reported problems with various forms of violence within their boundaries. Assaults and child molestation occur in parks, libraries, and schools. Emergency rooms of hospitals cited disturbances by drunken and disorderly persons. The threat of violent behavior or the presence of disorderly persons was reported to affect markedly the patronage of parks, libraries and afterschool activities, especially in areas with high crime rates.

⁵¹ Albert J. Reiss, Jr., "Employee Honesty in Businesses and Organizations in Eight Police Precincts of Three Cities." A report to the President's Commission on Law Enforcement and the Administration of Justice, 1966 (mimeo).

⁵² Stephen Cutler and Albert J. Reiss, Jr., "Crimes Against Public and Quasi-Public Organizations in Boston, Chicago, and Washington, D.C." A report to the President's Commission on Law Enforcement and the Administration of Justice, 1966 (mimeo).

Excerpts from:

CRIMES OF VIOLENCE

Vol. 12

A STAFF REPORT
SUBMITTED TO THE
NATIONAL COMMISSION ON THE
CAUSES & PREVENTION OF VIOLENCE

DONALD J. MULVIHILL MELVIN M. TUMIN Co-Directors

LYNN A. CURTIS

Assistant Director

December 1969

Policy Area IV: Compensation to Victims of Major Violent Crimes

Our recommendations have been concerned with the perpetrators of acts of violence and their identification, treatment, and rehabilitation. What about the victims? Does society owe any special obligation to innocent persons who are mugged, raped, or assaulted, or to their survivors if the attack is a fatal one? Should society compensate for such personal injuries?

Experience shows that often the victims are relatively impoverished, with no funds to maintain themselves or their families during extensive periods of recuperation. The only remedy normally available to a victim is to sue the offender. However, filing suit is only minimally effective; even if the offender is apprehended, he is often without funds, and if incarceration follows, it is

evern more difficult to obtain payment.80

Recognition by the government that it owes some financial responsibility to those citizens who are the victims of criminal violence is by no means new. The concept was utilized as early as 1775 B.C., in the Babylonian Code of Hammurabi, when there was an imposition of communal responsibility for certain crimes committed by unknown persons. The Book of Exodus records that such practices also existed among the early Hebrews, and evidence has been found to establish the existence of differing forms of victim compensation among the Greeks, Romans, and ancient Germans. 2

While the government has assumed the responsibility for the prosecution of offenders and transformed the compensation into a fine paid by the offender to the state, the question of victim compensation has continued.

Jeremy Bentham supported the concept in the early 19th century, 83 and the noted Italian criminologist, Raffaele Garofalo, later wrote that "it will be a long step in advance when the state comes to regard as a public function the indemnification of the person injured by criminal acts."84 Another Italian criminologist. Enrico Fermi, believed it was the government's responsibility to make certain that the victims of crime were properly compensated.85

The decisive stimulus to the enactment of contemporary victim compensation plans was provided by Margery Fry, the famed English magistrate and social reformer. 86 The first plan was adopted by New Zealand in 1963. Compensation schemes were subsequently adopted in Great Britain, four Canadian Provinces, 87 and in New South Wales. In the United States, plans have been adopted by California, New York, Hawaii, Massachusetts, and Maryland. There are also plans to cover all of Canada, 88 as well as proposals pending in numerous state legislatures in the United States.

The three generally accepted premises for the concept are: (1) the government is responsible for preventing crime and should compensate victims of crime it fails to prevent; (2) the government can easily remedy a hardship that exists; and (3) such victim compensation is simply public aid to the needy. All compensation plans recognize that the government has an obligation to persons who suffer bodily injury from acts of criminal violence.

Existing compensation systems are detailed in Appendix 34 to the report. A broad review shows that foreign plans usually compensate for direct pecuniary loss attributable to the crime and for pain and suffering, although coverage, generally excludes persons injured by members of their own family. Where there is contributory negligence on the part of the victim, these plans generally attempt to assess fractional shares of blame. Interesting variations include New Zealand's provision that the offender may be ordered to pay all or part of the compensation, depending on his financial position, and Great Britain's provision that the earnings loss to be covered cannot exceed twice the average industrial earnings published by the government at the time of injury.

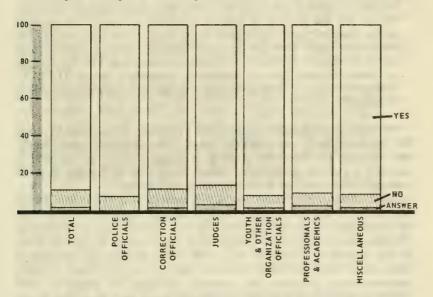
In the United States, compensation has usually been limited to necessary expenses-for example, hospitalization, medical treatment, and loss of wages directly attributable to the injury. Compensation for pain and suffering is excluded in all states except Hawaii. Hawaii and Massachusetts are the only states that do not require proof of serious financial hardship as a condition of recovery. Allowable compensation ranges from \$5,000 in California to \$30,000 in Maryland. Most jurisdictions exclude members of the offender's family from coverage.89

There is growing support for a recognition of society's obligation to victims. Former Supreme Court Justice Arthur J. Goldberg posed the challenge succinctly in 1964 when he stated:

Whenever the government considers extending a needed service to those accused of crime, the question arises: But what about the victim? We should confront the problem of the victim directly; his burden is not alleviated by denying necessary services to the accused. Many countries throughout the world, recognizing that crime is a community problem, have designed systems for government compensation of victims of crime.

consideration of this approach is long overdue here. The victim of a robbery or an assault has been denied the protection of the laws in a very real sense, and society should assume some responsibility for making him whole.

The Crime Commission endorsed the concept of victim compensation, ⁹¹ and public-opinion polls have demonstrated overwhelming support. In 1965, the Gallup Poll found 62 percent of a national sample endorsing the concept. In 1966, the International Association of Chiefs of Police passed a resolution supporting "reasonable indemnification to the victims of violent crime and/or their surviving kin." A 1967 Reader's Digest poll of professional members of the National Council on Crime and Delinquency (judges, law enforcement officials, etc.) revealed support for victim compensation in 90 percent of the 1,700 responses. An analysis of the responses, broken down by the profession of the respodent, is presented in Figure 1.⁹³



Source: 1967 Reader's Digest Poll. Tabulation by Task Force. See appendix 34.

Figure 1.-Opinion of professional groups as to whether or not victim compensation is needed

Individual cases show the need for compensation to victims of major violent crimes. The following three presented to the New York Victim Compensation Board are reasonably typical:

• Claimant, 38-year old male, married with four children, assaulted and robbed by unknown assailants and left unconscious on street. Sustained fractures of right frontal and temporal bones of skull. Has been in hospitals for almost four months. Now awaiting admission to N.Y.U. Medical Center for rehabilitative care. Protracted disability. No assets except cash of \$480, and would suffer serious financial hardship. Lump

sum award for unreimbursed lost earnings and medical expense of \$1,462.40 to the end of 1967 and commencing with January 1, 1968, \$364 per month during disability, not exceeding \$15,000.

• Man, age 52, gas station attendant, attacked while at work by two men, sustaining fracture of nasal bones and frontal sinus, left maxillary bone fractured, numerous lacerations on face and head, and body contusions. He was then thrown into a grease pit, hit his head on iron step and robbed of \$30 in silver. Confined to hospital two weeks; out of work for nine weeks. Medical expenses \$1,098.45, paid by employer's compensation carrier. Difference between earnings and amount paid by Workmen's Compensation carrier for nine weeks allowed. No provocation, serious financial hardship, since claimant has no assets and liabilities over \$1,000. Assailant arrested and charged robbery first degree. Award difference in loss of earnings for 9 weeks, \$283.50

• Female, age 47, assaulted by two unknown assailants. Punched in face, knocked to ground, and pocketbook was taken. Sustained sacleral rupture of left eye and fracture of zycoma. Confined to hospital for almost 3 weeks. Disabled from employment for 25 weeks and 4 days. Hospital bill reimbursed under Medicaid. Received disability benefits. Unreimbursed loss of earnings of \$1,403.42. Unreimbursed medical of \$34. Has virtually no assets. Serious financial hardship is determined. Award \$1,440.42. Emergency award of \$500 to be deducted, leaving balance now payable of

\$940.42.94

We endorse government compensation to victims of major violent crime. We urge adoption by the individual states of victim compensation plans⁹⁵ and ask that bills presently pending in Congress which are designed to establish a plan for areas within federal jurisdiction be brought to public

hearings by the respective Senate and House committees. 96

In an effort to frame more precise recommendations, accumulate enough information on the operation of existing plans, and define basic criteria which all compensation plans should meet, the First International Conference on Compensation to Victims of Violent Crime was convened by the Task Force in Los Angeles on December 3-4, 1968. The conference was arranged in cooperation with the Public Research Institute of the School of Public Administration, University of Southern California. In attendance were representatives of Great Britain, Canada, California, New York, Hawaii, and Maryland. Representatives of the proposed Illinois Plan, the National Council on Crime and Delinquency, University of Southern California, consultants, and Task Force members also attended.

With the suggestions of the participants at the International Conference in mind, we make the following additional recommendations:⁹⁷

• Victim compensation plans should include those persons injured while assisting law enforcement officials in the performance of their duties or persons injured in the course of assisting a victim of major violent crime. This "Good Samaritan" concept already expressly exists in numerous state plans in the United States as well as in many foreign plans, and the unanimous opinion of the representatives at the International Conference supported coverage for such persons.

- Victim compensation for major violent crimes must be regarded as a right for all citizens and, therefore, financial hardship requirements should be eliminated. This requirement received extensive criticism at the International Conference. One expert described the requirement as an "iniquituous idea that should be exorcised." If, as we believe, there is a moral obligation to victims, it should apply to all injured citizens and not to the needy alone.
- All future compensation programs should be administered by a separate board which deals exclusively with victim compensation.
- Maximum or minimum awards should be left to the discretion of the board and not be regulated by statute.

Most experts at the Conference believed that pain and suffering should not be compensated, although no recommendation was passed to this effect. The general consensus was that such compensation would result in unreasonable demands by victims. It was reemphasized that the primary goal of victim compensation should be to help victims recoup financial losses, not to assuage losses less measurable in monetary terms.

There are two final questions: will there be significant side effects (on victims, offenders, or criminal prosecutions), and will these costs be manageable?

Unfortunately, it is currently impossible to answer the first question. Future research in this area—proferably tied into the operation of compensation plans—would therefore be highly desirable. The experts believed, however, that compensation probably has minimal influence on the behavior of offenders or victims. Until evidence to the contrary becomes available, we do not believe that compensation will cause victims to become more careless or offenders to commit more violence.

Although it may be argued that compensation plans would lead to a decrease in successful criminal prosecutions—because victims, assuming they will be compensated, might be more charitable to the offenders and less anxious to assure conviction—it could also be validly argued that convictions would increase because a guilty verdict would assure compensation. Answers to such queries should be sought, but our present lack of complete information should not deter society from recognizing the obligation it owes to the victims of violent crime.

On a cost basis, victim compensation need not be viewed with alarm. Although the exact cost of any program depends on its special features (e.g., on whether there is compensation for pain and suffering, whether financial need is a requirement, etc.), experience has shown that the costs of existing programs have been relatively moderate. The program in England, for example, is now running at an annual rate of approximately \$3 million. As stated by the English representative at the International Conference:

Begun with some foreboding about the possibility of widespread fraud, surrounded by suggestions that its administration would bog down in adjudicatory complexities, and bothered by uncertainties regarding possible costs, the British program has to date proceeded through the awarding of more than 10,000 claims with neither untoward events nor meretricious consequences having become manifest.¹⁰¹

New York's program has not been unduly expensive. Awards made under the New York program from March 1, 1967, to October 15, 1968, have averaged \$3,000 for deaths, \$4,071 for protracted disability, and \$1,400 for personal injury. The program has operated on a \$750,000 dollar budget, and \$1.5 million will be requested for the next fiscal year. 103

Average state costs might be roughly projected from the figures for the proposed Illinois Plan. It provides that compensation not be paid where the cost to the victim is less than \$100. Maximum proposed payment is \$10,000. Illinois has estimated that if all eligible victims claiming injury were paid the full amount for which they were qualified, the annual cost to the state would be between \$2,265,000 and \$2,653,000.¹⁰⁴

Thus, the cost of victim compensation seems very low compared to the reduction in social injustice it provides, We reiterate that victim compensation for major violent crimes is a right of all citizens, and therefore ask that legislation on the state and federal levels be adopted following the guidelines we have recommended.



THE COUNCIL OF STATE GOVERNMENTS

- WASHINGTON OFFICE -

1735 DeSales Street, N. W., Washington, D. C. 20036 • (202) 737-9717

February 17, 1972

The following letter was sent to all state Insurance Commissioners

Dear :

Attached is an explanatory memo with illustrative questions pertaining to federal legislation currently pending before the U.S. Senate Judiciary Subcommittee on Criminal Laws and Procedures. Titled the Victims of Crime Act of 1972, the legislation is likely to go to the Senate Floor for a vote next month. If timely received, your responses could have a substantial impact on the content of the legislation.

It is particularly important that the subcommittee be aware of any negative impact the bill might have on existing State and local group insurance plans. If the group insurance plan for public safety officers envisioned in Title II of the bill might have an adverse impact on your State's group insurance program, we would like to know why and how.

If the subcommittee could have your comments by the end of February, it would be very helpful. They should be directed to Mr. G. Robert Blakey, Chief Counsel, Subcommittee on Criminal Laws and Procedures, Senate Judiciary Committee, New Senate Office Building, Washington, D. C. 20510. Copies to this office would be appreciated. If you have further questions, please contact Mr. Blakey at Area Code 202 225-3281.

Sincerely,

Lanny Proffer Special Assistant

LP/bc

Attachment

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

> By Mr. McCLELLAN (for himself, Mr. Bogos, Mr. Burdick, Mr. Cook, Mr. Eastland, Mr. Hansen, Mr. Hollings, Mr. Hruska, Mr. Humphrey, Mr. Mansfeld, Mr. Metcalp, Mr. Moss, Mr. Roth, Mr. Scott, Mr. Thurmond, Mr. Bible, and Mr. Griffin):

S. 2994. A bill to provide for the compensation of innocent victims of violent crime in need; to make grants to States for the payment of such compensation; to authorize an insurance program and death and disability benefits for public safety officers; to provide civil remedies for victims of racketeering activity; and for other purposes. Referred to the Committee on the Judiciary.

VICTIMS OF CRIME ACT OF 1972

Mr. McCLELLAN, Mr. President, more than 3,000 years ago, an Egyptian King surveyed his kingdom and recorded with great satisfaction the improvements and progress achieved under his regime. One passage in his survey disclosed basic fundamentals by which the soundness of any system of justice might be tested. He observed:

I made the land safe so that even a lone woman could go on her way freely and none would molest her.

I rescued the humble from their oppressors. I made every man safe in his home.

I made every man sale in his nome.

I preserved the lives of those who sought my court of justice.

The people were well content under my

ule.
(Quoted in Illinois Crime Survey, p. 5)

To conduct a similar survey, the President of the United States in 1965 called together his prestigious Commission on Law Enforcement and Administrtaion of Justice. In sharp and unfavorable contast, the Commission began its monu-

mental report with these tragic words:
There is much crime in America, more than
ever is reported, far more than ever is solved,
far too much for the health of the Nation.
Every American knows that. Every American
is, in a sense, a victim of crime. Violence and
theft have not only injured, often irreparabity, hundreds of thousands of citizens, but
have directly affected everyone. Some people
have been impelled to uproot themselves and
find new homes. Some have been afraid to
use public streets and parks. Some have
come to doubt the worth of a society in
which so many people behave so badly. Some
have become distrustful of the Government's
ability, or even desire, to protect them. Some
have lapsed into the attitude that criminal
behavior is normal human behavior and
consequently have become suspictious
of those they conceive to be responsible for
crime: adolescents or Negroes or drug addicts or college students or demonstrators;
policemen who fall to solve crimes, judges
who pass lenient sentences or write decisions
restricting the activities of the police; parole
boards that release prisoners who resume

(The Challenge of Crime in a Free Society, p. 1)

Mr. President, the results of this survey—stil valid today—are a reproach to our Nation and to our civilization. As those charged with legislative responsibility, we must do all that is in our power to strengthen the peace forces within our

society—the police, courts, and corrections. But in our efforts to meet the needs of the criminal justice system, we must not forget that institutions of government exist for people. In our efforts to strengthen the means by which we identify, apprehend and convict the criminal, we must not forget his innocent victim. For it is in his behalf ultimately that the criminal justice system must be operated.

Mr. President, it is for this reason that am today introducing for myself and the distinguished Senator from Delaware (Mr. Boggs), the distinguished Senator from North Dakota (Mr. Burdick), the distinguished Senator from Kentucky (Mr. Cook), the distinguished Senator from Mississippi (Mr. Eastland), the distinguished Senator from Wyoming (Mr. HANSEN), the distinguished Senator from South Carolina (Mr. Hollings), the disguished Senator from Nebraska (Mr HRUSKA), the distinguished Senator from Minnesota (Mr. Humphrey), the distinguished Senator from Montana (Mr. Mansfield), the distinguished Senator from Montana (Mr. Metcalf), the dis-tinguished Senator from Utah (Mr. Moss), the distinguished Senator from Delaware (Mr. ROTH), the distinguished Senator from Pennsylvania (Mr. Scott) and the distinguished Senator from South Carolina (Mr. THURMOND), the Victims of Crime Act of 1972." This proposed legislation consolidates and integrates the essential features of a number of separate measures now pending before the Subcommittee on Criminal Laws and Procedures. These bills have been the subject of a series of hearings before the subcommittee.

TITLE I: COMPENSATION FOR VICTIMS OF VIOLENT CRIME

Title I of the proposed legislation, derived from S. 750, introduced by our distinguished majority leader, the Senator from Montana (Mr. Mansrield), would establish a Federal program to meet the financial needs of the inocent victims of violent crime.

Mr. President, the notion that society has an obligation to help meet the financial needs of crime victims has roots that run deep in our legal traditions.

In the Code of Hammurabi (circa 2038 B.C.), it was provided:

If a man practice brigandage and be captured, that man shall be put to death. If the brigand be not captured, the man who has been robbed, shall, in the presence of God, make an itemized statement of his loss, and the city and the governor, in whose province and jurisdiction the robbery was committed, shall compensate him for whatever was lost. If it be a life (that was lost), the city and the governor shall pay one mina of silver to his heirs. [Harper, The Code of Hammurabi, p. 191

These provisions, we are told, were made to facilitate commerce.

Tactius, the Roman historian, tells us that the Germanic murderer of the first century after Christ, when convicted, paid a fine—

In a stated number of oxen or cattle. Half of the fine was paid to the King, half to the person for whom justice was being obtained or to his relatives. [Tacitus, Germania 23 (Stout ed.)]

These provisions, we are told, were made to compose and avoid blood feuds.

Modern law, in contrast, has sharply distinguished criminal and civil proceedings. The criminal is thought proceedings. The criminal is thought proceedings to society, which must be paid in the context of a criminal prosecution, whose purpose is to secure the safety of the people by the punishment of offenders. In these public proceedings, the victim himself is supposed to be a disinterested witness, whose personal remedy is to be found in private action in tort.

Dissatisfaction with results of this modern dichotomy in recent years begins with the writings of the English penal reformer, Margery Fry. In 1955, she began to speak up for the innocent victims of violent crime, calling for the establishment of a more effective remedy for the victim than the traditional action in

tort.

Her call for reform was first heard in New Zealand in 1963. In that year, the New Zealand Parliament, under conservative leadership, established the first crime compensation tribunal, with discretionary power to award public compensation to the victim or his dependents where he had been injured or killed through the commission of certain specified offenses. Compensation was authorized for out of pocket expenses, loss of earnings, and other financial losses. The tribunal was also empowered to order the offender to reimburse the indemnity fund from which the award was made.

fund from which the award was made. In the following year, the Tory Government in England announced a similar, but nonstatutory program. It was proposed by the Home Secretary and put into operation with the consent of Parliament. Under the plan, a criminal injuries compensation board was established, with discretionary power to award compensation for personal injuries caused by violent crimes.

The first American jurisdiction to adopt the compensation principle was California. Its program was enacted in 1965 and put in operation 2 years later. Since that time, similar or related programs have been established in New York, 1966; Hawaii, 1967; Massachusetts, 1967; Maryland, 1968; Nevada, 1969; and, most recently, New Jersey, 1971.

Legislation has also been introduced and considered in Illinois, Ohio, Michigan, and other States as well as several of the Canadian provinces. In my own State of Arkansas, Dr. Calvin R. Ledbetter, Jr., the chairman of the political science department at the University of Arkansas at Little Rock, introduced H.B. 175 in the 1971 regular session of the general assembly. The bill would have established a system of compensation for persons who sustain personal injury or death as a result of crime.

Mr. President, the handwriting on the wall ought to be plain for all to see. Any principle that could command the adherence, among others, of an ancient Middle Eastern tyrant, a primative, but free, Germanic tribe, two modern conservative governments and the legislatures of seven American States and several Canadian parliaments merits more than just close attention. Compensation for the innocent victims of violent crimes is an idea whose time has come. Our distinguished majority leader, the Sena-

tor from Montana (Mr. Mansfield) put it well when he introduced S. 750:

[In] directing our full attention to how [In] directing our full attention to how we can best combat the alarming crime rise we have ignored, unfortunately, certain aspects of the problem. The point has been reached . . . where we must give consideration to the victum of crime—to the one who suffers because of crime. For him, a society has failed miserably. * * To those who suffer, society has an obligation. [117 Cong. Rec. S1359 (daily ed. Feb. 11, 1971).]

Mr. President, to meet society's moral obligation in this area, title I of this proposed legislation would establish tw separate programs. The first part, follow two ing the successful New Zealand and English experience, would create in the Department of Justice a Federal Compensation Board, authorized to make direct awards to or on behalf of the inno-cent victim of violent crime in financial

Jurisdiction of the Federal Board would, of course, be limited to the area of primary Federal police power, chiefly the special maritime and territorial juris diction of the United States, including

the District of Columbia.

The Board would be a quasi-judicial administrative authority composed of three appointed members serving 8-year terms. The Board could compel the attendance of witnesses, but the strict rules

tendance of witnesses, but the strict rules of evidence would not be followed, and the hearings, where necessary at all, would not be adversary in character. In determining the amount of an award, the Board would be authorized to examine all aspects of the case, including the victim's financial need, other private and public resources, and the victim's cooperation with law enforcement authorities. Overall recovery would be limited to not more than \$50,000. Payment could be either lump sum or pe riodic, depending upon the facts of the case

Payment of attorneys' fees would also be authorized on terms and conditions paralleling those authorized for the defense of the indigent accused.

A criminal conviction would not be a prerequisite for recovery, but where an award was made, the Board would become subrogated to the rights of the victim against the offender. In addition, where the offender was prosecuted, the court would be authorized to direct that part of any fine paid go to an indemnity fund to be administered by the Board.

The second part of title I would amend the Omnibus Crime Control Act of 1968 and provide for a new grant program to be administered by the present Law Enforcement Assistance Administration States having programs meeting certain minimum standards, upon filing appropriate plans, could receive matching grants amounting to 75 percent of the costs of a similar State program for the compensation of victims of crime.

Adequate fiscal controls and periodic reports on the operation of the State program would be required.

Grants could also be withheld on a failure to comply with the act.

Mr. President, experience to date, both in England and among the States, as our hearings show, indicates that these programs—which meet society's moral obligation to the victim—may be operated both prudently and economically. So that all Members of this body and readers of the RECORD may see for themselves, I shall have printed in the RECORD at the conclusion of my remarks the most re-cent report of the English and the New York boards. In New York, for instance, the average lump-sum payment for in juries is \$1,500, the average periodic death benefit of \$2,500 a year up to the maximum of \$15,000, and the periodic disability payment of \$4,000 up to the maximum of \$15,000. Since March of 1967, in fact, New York has awarded approximately \$3,500,000. In the context of the total cost of the criminal justice system, this is little enough to spend to give needed aid to the innocent victim of violent crime

Mr. President. I believe that these two programs, respectful of the proper relation between the States and the Federal Government and sensitive to the needs of the innocent victims of crime, warrant the support of all Members of the Senate. TITLE II: GROUP LIFE INSURANCE FOR PUBLIC SAFETY OFFICERS

Title II of the proposed legislation, de rived from S. 33, introduced by the dis-tinguished Senator from Massachusetts (Mr. Kennedy), and S. 1946, introduced by the distinguished Senator from Minnesota (Mr. Humphrey) would establish a Federal-State group life and disability insurance program for State and local public safety officers, including police firefighters, and correctional men guards

Mr. President, title I of the proposed legislation is premised upon the recognition that society has a moral obliga-tion to each of its citizens in need who are the innocent victims of violent crime If this principle is sound, how much more so does society have a special obligation to meet the needs of public safety officers-policemen, firemen, correctional officers, and others who daily put their lives on the line for each of us. These brave men and women deserve not only up-to-date training and equipment, but also up-to-date benefits.

Unfortunately, a very crucial benefitadequate life insurance—is now often de-nied public safety officers. Mr. Quin Tamm, executive director of the International Association of Chiefs of Police, in a prepared statement submitted to the subcommittee, for example, noted:

Death and disability benefits are presently inadequate . . In 37 major cities surveyed by the Kansas City, Missouri, police Departinadequate . ment in 1970, 14 had no provision whatso ment in 1970, 14 had no provision whatso-ever for natural death except those covered by pension. In 9 cities, there was no cover-age for line of duty death except pension benefits. Many of these relied on donations and contributions to cover funeral expenses

Mr. President, society has a special moral obligation to meet the particular needs of those who take special risks in its behalf. We cannot shirk that responsibility.

Title II of the proposed legislation, modeled on the Federal crime insurance program of Public Law 91-609, would authorize the Law Enforcement Assistance Administration to establish a direct Federal life insurance program in those States where it determines that com-mercially available insurance or State

or local plans do not provide insurance for public safety officers at costs com-petitive with other similar occupations discounting the high risk factor of the officers' calling

The group life insurance program would be patterned after the present, successful servicemen's group life insurance program, available to members of the Armed Forces.

The program would be administered by the Federal Government but the insurance itself would be carried and the benefits paid by private life insurance companies.

Each officer would be entitled to coverage in the amount of his annual salary plus \$2,000, with a minimum coverage of \$10,000. Costs could be federally shared up to 25 percent.

Coverage would include on or off the job and double indemnity would be paid for accidental death. Loss of limb or eyesight would also be covered.

Title II would also explicitly authorize, independent of present statutory salary limitations, the use of present law enforcement grants under the Omnibus Crime Control and Safe Streets Act of 1968 to be used to establish statewide group life, accidental death, and dismemberment insurance programs for public safety officers.

Mr. President, we must be careful when we establish law enforcement as-sistance programs that we do not unnecessarily create direct financial relationship with police agencies on the State and local levels. We must never forget the folk wisdom so often quoted by the senior Senator from North Carolina (Mr. ERVIN): "Whose soup I sup, his song sing." No one in this body would di-rectly do anything to bring about a national police force. We must be careful, too, not to establish such direct ties with State and local agencies that those who come after us might, in a moment of weakness, find it all too easy to bring such an agency into being.

Mr. President, this two-level, Federal and State, insurance program, premised as it is on a clear and present showing of need, can be and is more than justifled. We might legitimately expect, too, that in the long run most States would take advantage of the funds available under the Crime Control Act and establish for themselves adequate State programs, making it unnecessary for a direct Federal program to operate in more than a few places.

Mr. President, I believe that this program, like title I, respectful of the proper relation between the State and the Federal Government and sensitive to the special needs of public safety officers, warrants the support of all Members of the Senate

TITLE III I: DEATH AND DISABILITY BENEFITS FOR PUBLIC SAFETY OFFICERS

Title III of the proposed legislation, de rived from S. 2087, introduced by myself and the distinguished Senator from Nebraska (Mr. HRUSKA), and S. 2748, introduced by the distinguished Senator from Delaware (Mr. Boggs), the distinguished Senator from Kansas (Mr. Dole), the distinguished Senator from South Carolina (Mr. Hollings), the distinguished

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Senator from Montana (Mr. Metcalf), the distinguished Senator from Utah (Mr. Moss), the distinguished Senator from Delaware (Mr. ROTH), the distinguished Senator from Maine (Mr. Mus-KIE), and the distinguished Senator from Wyoming (Mr. Hansen), would establish a Federal minimum death or disability benefit for public safety officers, their families or their dependents for death or disability in the line of duty as a result of a criminal offense

Mr. President, much of what I observed above in reference to titles I and II need be repeated here. Indeed, our society does owe a special obligation to those public safety officers who are killed in the line of cuty by robbers, snipers or convicts "protesting" their own all

just incarceration.

The statistics of violence are truly disturbing. During 1970, 100 law enforce-ment officers were killed by felonious criminal action. This is a 16 percent increase over 1969, when 86 law enforcement officers were slain. Indeed, since 1961, 633 officers have given their lives seeking to protect persons and property in our society.

Most disturbingly, moreover, since 1966, 29 officers have been slain from ambush, 19 of whom lost their lives in 1970.

I recognize that 96 percent of these police slayings are now solved within 30 days by the efforts of local officials, assisted by the special Federal investigative aid recently authorized by the President. But this is of little moment to the officers family or dependents. It is important that the murderer be brought to brook. But it is also important that concern be paid to the consequences of his conduct, especially when it was often society, in a real sense, that was the target of his attack.

Mr. President, our hearings have shown that it is not only the policemen who must brave the risk of a felonious death. Civil disorders and social strife have, in recent years, produced new hazards for

firefighters.

Two firefighters were killed in the Detroit riots, one in Watts, another in Newark

From 1967 to 1969, over 600 firefighters were injured during civil disorders, and an additional 113 sustained injuries due

to acts of individual violence Finally, I know I need not do anything but make reference to a small upstate town in New York—Attica—to bring to mind the terrible risk that corrections guards must now face in this age of so-

called protest and riot. It is in this sad and tragic context that title III would establish-independent of the compensation program in title I or the insurance program in title II—a di-rect. minimum level Federal death or disability benefit for public safety officers killed or injured in the line of duty by a criminal act

The program would be administered by the Law Enforcement Assistance Administration

No contribution would be required

death benefit of \$50,000 would be paid to the spouse and the dependents of any public safety officer killed in the line of duty.

Payment would also be made for loss of limb or sight.

Payment would be made upon certification by the Governor of the State.

Interim payments could be immediately made in cases of apparent eligibility to meet the funeral costs, mortgage payments, and other necessities before formal certification

Mr. President, this program is the least we can do to express our moral support for the public safety officers who daily risk their lives for each of us.

I believe that this program will quickly and effectively meet society's special moral obligation to its public safety officers, their families and their dependents. It merits the support of all Members of the Senate.

TITLE IV: CIVIL REMEDIES FOR VICTIMS OF RACKETEERING ACTIVITY

Title IV of the proposed legislation derived from S. 16, introduced by myself and the distinguished Senator from Nebraska (Mr. Hruska), would strengthen the procedural implementation of the civil remedies available to victims of racketeering activity under the Organized Crime Control Act of 1970.

Mr. President, on October 15, 1970, the President signed into law S. 30, the Organized Crime Control Act of 1970. Attorney General Mitchell has termed this act "one of the most imaginative and comprehensive proposals to combat organized crime ever introduced in the Congress." Title IX of that act adapted certain of the time-tested remedies of antitrust law to the typical techniques employed by racketeers to invade legitimate businesses. In discussing the rationale for the creation of the remedies, the report of the Senate Committee on the Judiciary noted:

There is no doubt that the common law criminal trial, hedged in as it is by necessary restrictions on arbitrary governmental power to protect individual rights, is a relatively ineffectual tool to implement economic policy. It must be frankly recognized, moreover, that the infiltration of legitimate organiza-tions by organized crime presents more than a problem in the administration of criminal a problem in the administration of criminal justice. What is ultimately at stake is not only the security of individuals and their property, but also the viability of our free enterprise system itself. The committee feels. therefore, that much can be accomplished here by adapting the civil remedies developed in the antitrust field to the problem of organized crime. [S. Rept. No. Cong., 1st Sess. 80-81 (1969)] 91-617, 91st

As S. 30 passed the Senate, title IX was fashioned as a tool to be employed by the Government against the racketeers. Detailed consideration was not then given to carrying the antitrust parallel out by according the private victims of racketeering activity similar civil antitrust type remedies.

During the processing of S. 30 in the House of Representatives, however, an amendment was added authorizing private treble damage suits and the recovery of attorney fees. This action was taken at the suggestion of Mr. Edward Wright of Little Rock, Ark., then President of the American Bar Association, who testified in behalf of the association that-

It strongly endorsed the principle of in-corporating antitrust and other appropriate civil weaponry into anti-crime arsenal, par-ticularly against organized crime. [Testi-mony of Edward L. Wright, House Hearings on S. 30, 91st Cong., 2d Sess. 544 (1970)]

Mr. President, title IV of the proposed legislation would round out the imple-mentation of the suggestion of President Wright begun by the House of Representatives. In addition to authorizing private recovery of treble damages and attorney fees, it would permit the United States itself to sue for actual damages, when it is injured in its business activity, and to intervene in private suits under the act of general public importance, authorize private injunctive relief racketeering activity, regulate the application of the doctrine of estoppel between criminal and civil proceedings, provide for a statute of limitations for civil actions and its appropriate suspension during pendency of criminal ac-tions, and make applicable to suits under the amended act nationwide venue and service of process provisions.

Mr. President, the salutory provisions

of titles I, II, and III-for compensation to victims, insurance and other benefits—are made necessary in part because the perpetrators of most criminal offenses are themselves financially irresponsible. On the whole, traditional tort and other civil remedies hold out only illusionary avenues of possible recovery to the injured victim. In many instances however, racketeering activity in busi-nesses will be an exception to this genrule. These amendments to S will help the victim of crime himself to become whole once again, where there are persons or assets that may be reached through the civil courts. This title too, merits the support of all Members of the Senate.

TITLE V: GENERAL PROVISIONS

Title V of the proposed legislation includes provisions for effective dates and authorization for appropriations for the other titles of the bill.

Title I-compensation-is made effective 6 months after the effective date of the act.

Title II-insurance-is made effective

immediately.

Title III—death benefits—is made

retroactive for the past 5 years. Title IV—civil remedies—is made retroactive to the date of the enactment of the Organized Crime Control Act of 1970

Mr. President, compensation for victims of crime is an idea whose time has come. What reservation that exists remains only on the details of implementation or cost.

Contrary to the fears expressed before the establishment of similar programs elsewhere, as noted above, it appears that a program of this type may be established on a sound and prudent financial basis. The experience of England and the several States should lay to rest these honest but unnecessary fears.

In my judgment, an authorization of \$165 million through the fiscal year end-ing June 30, 1973, should be more than ample to carry this legislation into effect.

The Omnibus Crime Control Act of

1970 carried with it an authorization for the Law Enforcement Assistance Administration of \$1,150 million for the fiscal year ending June 30, 1972, and a similar authorization of \$1,750 million for the fiscal year ending June 30, 1973

One hundred and sixty-five thousand dollars for the victims of crime seems little enough.

Mr. President, the proposed Victims of Crime Act of 1972 represents the natural continuation of the work of the Subcommittee on Criminal Laws and Procedures which I have been privileged to chair since it was established in October of We have considered more than 180 bills in 35 days of hearings in four separate Congresses. Major legislation that has been processed by the subcommittee includes:

The Narcotic Addict Rehabilitation Act of 1966

The Omnibus Crime Cotrol and Safe Streets Act of 1968.

The Omnibus Crime Control Act of 1970.

The Organized Crime Control Act of 1970.

Each of these acts attempted to deal with a special problem-narcotics or orcrime-or attempted strengthen the police, courts, and correctional systems of the Federal, State, and local governments. It is only appropriate now, therefore, that we turn to the innocent victims of crime.

Mr. President, this legislation is integrated, but it is not necessarily interdependent. It would be possible to process it without one or several of its titles. am satisfied, however, that its broad out lines merit full support. Nevertheless, I know that this proposal is not perfect. I am sure that with further processing suggestions will be forthcoming that can strengthen it. I know that the subcom-mittee will welcome the suggestions of our colleagues here in the Senate. As chairman of the subcommittee, I also intend to give this bill circulation throughout the country over the coming recess with the hope that we can obtain the assistance of those knowledgeable persons outside Congress. We will welcome their suggestions, too.

Mr. President, during the course of our hearings before the subcommittee, the administration expressed approval of the basic ideas in title III—death benefits and title IV-civil remedies for racketeering activity-even though it did express reservations with the extension of the coverage of title III to firefighters. It also indicated that it preferred the approach of title III—death benefits to the approach of title II-insuranceand noted that the principle of title Icompensation—was still under study in the Department of Justice. I am hopehowever, that the administration will find this integration of the essential features of the several items of individual legislation satisfactory and in a form that it can support. It is my hope to process this legislation through the full Committee on the Judiciary as soon as practical after we return from the recess, and, if possible, to the Senate floor early in the second session of this Congress.

Mr. President, this legislation is good legislation. It meets a pressing and humane moral obligation of society in a prudent and financially responsible manner. It should be a matter on which there is no disagreement. Legislation sole objective is directed to the victims of crime is long overdue. We ought to move to enact it now

Mr. President, I ask unanimous con-sent that the following appear in the RECORD at this point:

First. The text of the bill.

Second. The English Criminal Injuries

Compensation Board Report for 1970. Third. The New York Crime Victims Compensation Board Report for 1970.

Fourth. A comparative analysis be-tween the first part of title I of the proposed bill and State law.

Fifth. A letter and news article re-ceived from Mr. Donald E. Clark of Multnomah County, Oreg., in reference to a recent police homicide.

There being no objection, the bill and material were ordered to be printed in

the RECORD, as follows: S. 2994

A bill to provide for the compensation of innocent victims of violent crime in need; to make grants to States for the payment of such compensation; to authorize an insurance program and death and disability benefits for public safety officers; to provide civil remedies for victims of racketeering activity; and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Victims of Crime Act of

STATEMENT OF FINDINGS AND PURPOSE

The Congress finds that (1) there is an increase of crimes of violence not only in urban, but also in suburban and rural areas; (2) the increase in crimes of violence is dis-proportionate to the increase in population; (3) the increase in crimes of violence in-(3) the increase in crimes of violence in-creases the chances of a person becoming a victim of such a crime; (4) on an increasing basis crimes of violence are being directed at public safety officers, including policemen, firemen, and correctional guards; (5) law en-forcement identification convolutions of firemen, and correctional guards; (a) law ear-forcement identification, apprehension and conviction of perpetrators of crimes of violence is decreasing; (6) the perpetrators of crimes of violence, when identified, apprehended, and convicted, are aften not financially responsible; and (7) the victims of crimes of violence, their families and de-pendents, are often themselves unable to bear the consequent pecuniary losses with-

out undue hardship.

It is, therefore, the purpose of this Act to commit the United States to meet its moral obligation to assist the innocent victims of violent crime, their families and dependents violent crime, their families and dependents in financial need, by direct sid to those within the area primarily of Federal responsibility, by assistance to the States to aid those within the area primarily of State responsibility, by the establishment of insurance and benefit programs for public safety officers at their families and dependents, and by strengthening of the civil remedies available to victims of racketeering activity.

TITLE I-COMPENSATION FOR VICTIMS OF VIOLENT CRIME

DECLARATION OF PURPOSE

Sec. 101. It is the declared purpose of Congress in this title to promote the public wel-fare by establishing a means of meeting the financial needs of the innocent victims of violent crime, their families and dependents. and others acting to prevent the commis-sion of crime or to assist in the apprehen-sion of suspected criminals.

PART A-FEDERAL COMPENSATION PROGRAM SEC. 102. The Omnibus Crime Control and afe Streets Act of 1968, as amended, is amended by-

(1) redesignating sections 451 through 455 respectively as sections 421 through 425; (2) redesignating sections 501 through respectively as sections 550 through 570;

(3) redesignating parts F. G. H. and I of le I respectively as parts I, J. K. and L of title I: and

(4) adding at the end of Part E of Title I, amended by this Act, the following new

"PART F—FEDERAL COMPENSATION FOR VICTIMS OF VIOLENT CRIME

"DEFINITIONS

"SEC. 450. As used in this part-

"(1) 'Board' means the Violent Crimes Compensation Board established by this

'Chairman' n the Violent Crimes Compensation Board established by this part

(3) 'child' means an unmarried person who is under eighteen years of age and in-cludes a stepchild or an adopted child, and illegitimate child, and student over 18 years of age, and a child conceived prior to but born after the personal injury or death of

(4) 'dependent' means a relative or other person who was wholly or partially depen-dent upon the income of the victim at the time of the personal injury or death of the

'Executive Secretary' means the Ex-

ecutive Secretary of the Violent Crimes Com-pensation Board established by this Part; "(6) 'General Counsel' means the General Counsel of the Violent Crimes Compensa-tion Commission established by this Part;

"(7) 'guardian' means a person who is en-titled by common law or legal appointment to care for and manage the person or prop-erty or both of a child or incompetent;

"(8) 'incompetent' means a person who is incapable of managing his own affairs, whether adjudicated or not;

"(9) 'personal injury' means actual bodily harm and includes pregnancy, mental distress and nervous shock

id hervous shock;
"(10) 'pecuniary loss' includes:
"(A) for personal injury—
"(1) medical expenses (including psychi-

Tic care);
"(2) hospital expenses;
"(3) loss of past earnings; and
"(4) loss of future earnings because of a
sability resulting from the personal injury; and
"(B) for death—
"(1) funeral and burial expenses; and

(2) loss of support to the dependents of

Pecuniary loss includes any other expenses actually and necessarily incurred as a result of the personal injury or death, but it does not include property damage.

"(11) 'relative' includes a spouse, parent, andparent, stepfather, stepmother, child, andchild, siblings of the whole or half grandparent, stepfather, ste grandchild, siblings of the

blood, a spouse's parents, a niece or nephew;

"(12) 'student' means a person who is a 'student' as defined in paragraph (17) of sec-tion 8101 of title 5 of the United States Code; and

'(13) 'victim' includes any person who is "(13) 'victim' includes any person who is killed or injured as proximate cause of a criminal act committed or attempted against him enumerated in section 488 of this part or killed or injured while assisting a law en-fercement officer to apprehend a person who has committed a rime or to prevent the commission of a crime.

"COMPENSATION BOARD

"Sec. 451. (a) There is hereby established a Board within the Department of Justice to be known as the Violent Crimes Compen-sation Board (hereinafter referred to as the

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'Board'). The Board shall be composed of three members to be appointed by the President, by and with the advice and consent of the Senate. The President shall designate one of the members of the Board as Chairman, who shall have been a member of the bar of a Federal court or of the highest court of a

State for at least eight years.
"(b) There shall be appointed by the President, by and with the advice and consent of the Senate, an Executive Secretary and a General Counsel to perform such duties as the Board shall prescribe in accordance with the objectives of this part. "(c) No member of the Board shall en-

gage in any other business, vocation, or em-

ployment

- ployment.

 "(d) Except as provided in paragraph (1) of subsection a of section 456 of this part the Chairman and one other member of the Board shall constitute a quorum. Where oping ion is divided and only one other member is present, the opinion of the Chairman shall
- prevail.
 "(e) The Board shall have an official seal.

"FUNCTIONS OF THE BOARD

"SEC. 452. In order to carry out the purposes of this Part, the Board shall—"(1) receive and process applications under the provisions of this Part for compensation for personal injury or death resulting from criminal acts enumerated in section 458 cf

this Part "(2) hold such hearings, sit and act at such times and places, and take such testimony as the Board or any member thereof may deem

advisable (3) order the payment of compensati

"(3) order the payment of compensation to tictims and other beneficiaries in accordance with the provisions of this Part; and "(4) take such other action as it deems necessary and appropriate to carry out the purpose of this Part.

"ADMINISTRATIVE PROVISIONS

"Sec. 453. (a) The Board is authorized in carrying out its functions under this Part

"(1) appoint and fix the compensation of such personnel as the Board deems necessary in accordance with the provisions of Title 5 of the United States Code:

of the United States Code;

"(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of Title 5 of the United States Code, but at rates not to exceed \$100 a day for individuals;

"(3) promilests such authorities.

"(3) promulgate such rules and regulations as may be required to carry out the provisions

as may be required to early out the plant;

"(4) appoint such advisory committees as
the Board may determine to be desirable to
carry out the provisions of this Part;

"(5) designate representatives to serve or

"(5) designate representatives to serve of assist on such advisory committees as the Board may determine to be necessary to maintain effective liasion with Federal agen-

maintain effective lission with Federal agen-cies and with State and local agencies devel-oping or carrying out policies or programs related to the provisions of this Part. "(6) use the services, personnel, facilities, and information (including suggestions, es-timates, and statistics of Federal agencies and those of State and local public agencies and private institutions, with or without reimbursement therefor: "(7) without resard to section 529 of Ti-

"(7) without regard to section 529 of Ti-tle 31 of the United States Code to enter into and perform such contracts, leases. into and perform such contracts, leases, co-operative agreements, or other transactions as may be necessary in the conduct of its functions, with any public agency, or with any person, firm, association, corporation, or educational institution, and make grants to any public agency or private nonprofit organization

"(8) request such information, data, and reports from any Federal agency as the Board may from time to time require and as may be produced consistent with other law; and "(9) arrange with the heads of other Fed-

eral agencies for the performance of any of its functions under this Part with or with-out reimbursement and, with the approval of the President, delegate and authorize the redelegation of any of his powers under this

Upon request made by the Board, (b) each Federal agency is authorized and di-rected to make its services, equipment, personnel, facilities, and information (includ-ing suggestions, estimates and statistics) available to the greatest practicable extent the Board in the performance of its functions

(c) Each member of a committee pointed pursuant to paragraph (4) of sub-section (a) of this section shall receive \$100 including traveltime, for each day is engaged in the actual performance of is engaged in the actual periorimized of his duties as a member of a committee. Each such member shall also be reimbursed for travel, subsistence, and other necessary ex-penses incurred in the performance of his duties

"TERMS OF BOARD MEMBERS

"Sec. 454. (a) The term of office of each member of the Board taking office after January I, 1972, shall be eight years, except that (1) the terms of office of the members first taking office after January I, 1972, shall expire as designated by the President at the time of appointment, one at the end of four time of appointment, one at the end of four years, one at the end of six years, and one at the end of eight years, after January 1, 1972; and (2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

(b) Each member of the Board shall be

eligible for reappointment.
"(c) Any member of the Board may be r

moved by the President for inefficiency, ne-glect of duty, or malfeasance in office.

"(d) All expenses of the Board, including all necessary travel and subsistence expenses of the Board outside the District of Columbia of the Board dusing the District of Continuous incurred by the members or employees of the Board under its orders, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the Executive Secretary, or his designee.

"PRINCIPAL OFFICE

"Sec. 455. (a) The principal office of the Board shall be in or near the District of Columbia, but the Board or any duly au-Columnia, but the Board of any duly au-thorized representative may exercise any or all of its powers in any place. "(b) The Board shall maintain an office for the service of process and papers within the

District of Columbia.

"PROCEDURES OF BOARD

SEC. 456. (a) The Board-

(1) may subpena and require production of documents in the manner of the Securities and Exchange Commission as provided in subsection (c) of section (18) of the Act of August 26, 1935, except that such subpens shall only be issued under the signature of the Chairman, and application to any court for aid in enforcing such subpena shall be made only by the Chairman, but a subpena may be served by any person designated by the Chairman

"(2) may administer oaths, or affirmations to witnesses appearing before the Board, receive in evidence any statement, document, information, or matter that may, in the opinion of the Board, contribute to its functions under this Part, whether or not such statement, document, information, or matter would be admissible in a court of law;
"(3) shall conduct hearings open to the

public unless in a particular case the Board determines that the hearing, or a portion thereof, should be held in private, having regard to the fact that the criminal has not been convicted or to the interest of the vic-

tim of an alleged crime; and
"(4) may appoint an impartial licensed

physician to examine any person making application under this Part and order the payment of reasonable fees for such exam-

"(b) The Board shall permit every person pearing under section 460 of this Part to

"(b) The Board shall permit every person appearing under section 460 of this Part to have the right to produce evidence and to cross-examine such witnesses as may appear.

"(c) Where a person has been convicted of a crime giving rise to an application under this Part, proof of the conviction shall be conclusive evidence that the crime was committed, unless an appeal of the conviction or a petition for a rehearing or certiorart is pending or a new trial or rehearing has been ordered. ordered

(d) The Board shall be 'an agency of the United States' under subsection (1) of section 6001 of Title 18 of the United States Code for the purpose of granting immunity

to witnesses.

"SEC. 457. (a) In any case in which a p son is injured or killed by any criminal or omission of any other person, enumerated in section 458 of this Part, the Board may, in its discretion, upon an application, order the payment of, and pay, compensation in ac-cordance with the provisions of this Part, if such act or omission occurs— "(1) within the 'special maritime and ter-ritorial jurisdiction of the United States' as defined in section 7 of title 18 of the United States Code, or in its discretion, upon an application, order

States Code: or

(2) within the District of Columbia.
(b) The Board may order the payment

compensation—

(1) to or on behalf of the victim; or

"(2) in the case of the personal injury of the victim, where the compensation is for pecuniary loss suffered as a result of that ersonal injury by any person, to that per

on; or

"(3) in the case of the death of the victim, to or for the benefit of the dependent
of the deceased victim, or any one or more
of such dependents, or to any person who
has suffered pecuniary loss as a result of that

"(c) In determining whether to order a payment under this section, the Board may consider any circumstances it determines to be relevant and the Board shall consider the behavior of the victim, and whether, be-cause of provocation or otherwise, the victim bears any share of responsibility for the crime that caused his injury or death and the Board shall reduce the amount of compensation in accordance with its assessment of the degree of such responsibility attributable to the victim.

"(d) No order may be made under this section unless the Board, with or without hearings, supported by substantial evidence, finds

(1) such an act or omission did occur; and

(2) the injury or death was proximately

caused by such act or omission.

"(e) An order may be made under this section whether or not any person is prosesection whether or not any person is prose-cuted or convicted of any crime arising out of such act or omission or if such act or omission is the subject of any legal action. The Board may suspend proceedings in the interest of justice if a civil action arising from such act or omission is pending or im minent.

"CRIMES TO WHICH THIS PART APPLIES

"SEC. 488. (a) The Board may order the payment of, and pay, compensation for pecuniary loss in accordance with the provisions of this Part for personal injury or death which resulted from crimes in the following categories

"(1) aggravated assault; "(2) arson;

"(3) assault;

"(4) burlgary;
"(5) forcible sodomy;

(6) kidaping:

"(7) manslaughter;

"(8) mayhem;

murder

negligent homicide:

rape

(12) robbery: riot

unlawful sale or exchange of drugs; "(15)

unlawful use of explosives unlawful use of firearms;

(17) any other crime involving the use of

ce, including poisoning, to the person; or (18) attempts to commit any of the

aforegoing."

"(b) For the purposes of this Part, the operation of a motor vehicle, boat or air-

operation of a motor vehicle, boat or air-craft that results in an injury or death shall not considute a crime unless the injuries were intentionally inflicted through the use of such vehicle, boat or aircraft.

"(c) For the purposes of this Park, a per-son shall be deemed to have committed a criminal act or omission notwithstanding that by reason of age, insanity, drunkenness, or otherwise he was legally incapable of com-mitting & crime. mitting a crime.

"WHO MAY RECOVER LOSS

"SEC 459. A person is entitled to make application for an order of compensation under this Part if he is a victim, he was a person who was dependent on a victim at the time of the personal injury or death of the victim, or he suffered pecuniary loss as a result of the personal injury or death of the victim

"APPLICATION FOR PAYMENT OF COMPENSATION

"SEC. 460. (a) In any case in which the person entitled to make an application is person envited to make an application is a child, or incompetent, the application may be made on his behalf by any person acting as his relative, guardian, or attorney.

"(b) Where any application is made to the Board under this Part, the applicant, or his

attorney, and any attorney of the Bosshall be entitled to appear and be heard.

"(c) Any other person may appear and be heard who satisfies the Board that he has a substantial interest in the proceedings.

"ATTORNEY'S FEES

Sec. 461. (a) The Board shall publish alations providing that an attorney may, at the conclusion of proceedings under this Part, file with the Board an appropriate statement for a fee in connection with services rendered in such proceedings

(b) After the fee statement is filed by an (b) After the lee statement is filed by an attorney under subsection (a) of this section, the Board shall award a fee to such attorney on the same terms and conditions as is provided for the payment of representation under Section 3006A of Title 18 of the United States Code.

"(c) Any attorney who charges or collects for services rendered in connection with any proceedings under this Part any fee in any amount in excess of that allowed under this section shall be fined not more than \$1,000 imprisoned not more than one year, or both.

"CHARACTER OF COMPENSATION

"SEC 462. The Board may order the payment of compensation under this Part for any pecuniary loss actually and necessarily incurred as a result of the personal injury or death of the victim.

"FINALITY OF DECISION

"SEC. 463. The orders and decisions of the Board shall be reviewable in the appropriate court of appeals, except that no trial de novo of the facts determined by the Board shall be allowed.

"LIMITATIONS UPON PAYMENT OF

COMPENSATION

"SEC. 464. (a) No order for the payment of compensation shall be made under this part unless the Board finds that the appli-cant will suffer undue financial hardship from pecuniary loss incurred as a result of the injury or death of the victim if the order

for the payment of compensation is not made. In determining undue financial hardship for the purposes of this subsection, the Board shall consider all of the financial resources of the applicant. The Board shall establish standards by rule for determining such undue financial hardship.

"(b) No order for the payment of compensation shall be applied to the payment of the payme

sation shall be made under this part unless the application has been made within one year after the date of the personal injury

"(c) No order for the payment of com-pensation shall be made under this part unless the applicant has incurred a minimum

pecuniary loss of \$100 or has lost two con-tinuous weeks earnings or support.

"(d) The criminal or an accomplice of a criminal, a member of the family of the criminal, a person living in the household of the criminal, or a person maintaining sex-ual relations with the criminal shall not be eligible to receive compensation with respect

oughne to receive compensation with respect to a crime committed by the criminal. "(e) No order for the payment of com-pensation under this part shall be made un-less the act resulting in the personal injury or death for which the compensation is to be paid was reported to the law enforcement officials within seventy-two hours after its occurrence, unless the Board finds that the failure to report was justified by good cause.

"(f) The aggregate of orders for the payment of compensation under this part as the result of any one criminal act, omission, or occurrence shall not be in excess of

\$50,000.

"(g) The Board, upon finding that any applicant or beneficiary of any payment of compensation has not fully cooperated with all law enforcement agencies, may deny or withdraw any order of payment of compensions. sation.

"TERMS AND PAYMENT OF THE ORDER OF COMPENSATION

"SEC. 465. (a) Except as otherwise provided in this section, any order for the payment of compensation under this part may be made on such terms and conditions as the Board deems necessary and appropriate to carry out the purposes of this part.

"(b) The Board shall deduct from any payments ordered under section 457 of this part any nawments received by applicant.

any payments received by applicant—
"(1) from the criminal or from any person
on behalf of the criminal;

(2) under insurance programs mandated

(3) from the United States, a State or any of its subdivisions, for a personal injury or death otherwise compensable under this

"(4) under contract of insurance wherein the applicant is the insured or beneficiary but only to the extent that the sum of such payments plus any payment ordered under this part would be in excess of the total compensable injuries suffered by the applicant

pensate injuries sunered by the applicant as determined by the Board. "(c) The Board shall pay to the person named in the order of payment of compensa-tion the amount named therein in accord-

tion the amount named therein in accord-ance with the provisions of such order.

"(d) No order for the payment of com-pensation made under this part shall be sub-ject to execution or attachment other than for expenses resulting from the injury or death which is the basis for the application.
"(e) In the case of a payment for the bene-"(e) in the case of a payment for the benefit of a child or incompetent, the Board shall order the payee to file an accounting with the Board no later than January 31 of each year for the previous calendar year and to take for the previous calendar year and to take such other action as the Board shall deter-mine to be necessary and appropriate for the benefit of the child or incompetent.

"EMERGENCY AWARDS

"SEC. 466. (a) Whenever the Board determines, prior to taking action upon an application that—

"(1) such application is one with respect which an order of payment will probably be made, and

undue hardship may result to the applicant if immediate payment is not made, the Board may order emergency payments to the applicant pending a final decision on the application.

"(b) The amount of any emergency pay-ment ordered under subsection (a) of this section shall be deducted from the amount of any final order for the payment of com-pensation made to the applicant.

"(c) Where the amount of any emergency payment ordered under subsection (a) of this section exceeds the amount of the final order for the payment of compensation, or if there is no order for the payment of com-pensation made, the recipient of any such emergency payment shall be liable for the re-payment of such amount in accordance with rules and regulations prescribed by the Board.
The Board may waive all or part of such repayment where in its judgment such repayment would involve severe financial b

"RECOVERY FROM THE CRIMINAL

"RECOVERY FROM THE CRIMINAL"
"SEC. 467. (a) Whenever any person is convicted of a crime and an order for the payment of compensation is or has been made under this Part for a personal injury or death resulting from the act or omission constituting such crime, the attorney General may, within one year from the date on which the judgment of conviction became final, institute an action against such person for the recovery of the whole or any specified part of such compensation in the district court of such compensation in the district court of such compensation in the district court of the United States for any judicial district in which such person resides or is found. Such court shall have jurisdiction to hear, determine, and render judgment in any such action. Any amounts recovered under this subsection shall be deposited in the Criminal Victim Indemnity Fund. If an amount greater than that paid pursuant to the order for payment of compensation is recovered and collected in any such action, the Board shall pay the balance to the applicant.

"(b) Process of the district court for any

"(b) Process of the district court for any judicial district in any action under this sec-tion may be served in any judicial district of the United States by the United States marthe United States by the United States mar-shal thereof. Whenever it appears to the court in which any action under this section is pending that other parties should be brought before the court in such action, the court may cause such other parties to be summoned from any judicial district of the United States.

"(c) The Board shall provide to the Attorney General such information, data, and reports as the Attorney General may require to institute actions in accordance with this section

"EFFECT ON CIVIL ACTIONS

"SEC. 468. An order for the payment of compensation under this part shall not affect the right of any person to recover damages from any other person by a civil action for the injury or death.

"INDEMNITY FUND

"SEC. 469. There is hereby created on the books of the Treasury of the United States a fund known as the 'Criminal Victim Indemnity Fund' (hereinsiter referred to as the 'Fund'). The Fund shall consist of such amounts as may be deposited in, or appropriated to such Fund, as provided by law, or as may be contributed to such Fund by public or private agencies or organizations or individuals.

"DUTY TO INFORM VICTIMS

"SEC. 470. (a) Each Federal law enforcement agency investigating a crime to which this Part applies shall inform victims of their eligibility to make an application for an order of compensation under this Part. Such agency shall provide forms (as prescribed by

the Board) to each person who is eligible to file a claim pursuant to this Part.

"(b) If a victim of a crime does not co-operate with a law enforcement agency in the

operate with a law enforcement agency in the identification, apprehension and conviction of the perpetrator of the crime, any Federal law enforcement agency involved shall immediately notify the Board of such lack of cooperation.

"REPORTS TO CONGRESS

"Sec. 471. The Board shall transmit to the "SEC. 471. The Board shall transmit to the Congress an annual report of its activities under this Part, including the name of each applicant, a brief description of the facts in each case and the amount, if any, of compensation awarded."

COMPENSATION OF BOARD MEMBERS AND PERSONNEL SEC. 103. (a) Section 5314 of title 5 of the United States Code is amended by adding at at the end thereof the following new para-

(58) Chairman, Violent Crimes Comp

(a) Section 5315 of title 5 of the United States Code is amended by adding at the end thereof the following new peragraph:

"(95) Members, Violent Crimes Compensation Board."

(c) Section 5012

tion Board."

(c) Section 5316 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraphs:

"(131) Executive Secretary, Violent Crimes Compensation Board.

"(132) General Counsel. Violent Crimes

compensation Board.

"(132) General Counsel, Violent Crimes
Compensation Board."

SEC. 104. (a) Chapter 227 of title 18 of the
United States Code is amended by adding at
the end thereof the following new section:

"§ 3579. Fine imposed for Criminal Victim Indemnity Fund.

Indemnity Fund.
"In any court of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, upon conviction of a person of a crime resulting in the personal injury or death of another person, the court shall take into consideration the financial conditions of the Court State of the Court into consideration the financial conditions of such person, and may, in addition to any other penalty, order such person to pay a fine commensurate in amount with the personal injury or death of such other person and such fine shall be deposited into the Criminal Victim Indemnity Fund of the United States."

States."
(b) The analysis of chapter 227 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"§ 3579. Fine Imposed for Criminal Indem nity Fund.

PART B-FEDERAL GRANT PROGRAM

SEC. 105. Subsection (b) of section 301 of art C of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by adding at the end thereof the

following new paragraph:

"(10) The Federal share of the costs of
State programs to compensate victims of vio-

lent crime

rime."
. 106. Section 303 of such Act is ded by inserting "(a)" immediately "303" and by adding at the end thereof after

the following new subsections:

"(b) In the case of a State applying for
the Federal share of costs of State programs the Federal share of costs of State programs to compensate victims of violent crime, the Administration shall make grants to a State only if, after consultation with the Violent Crimes Compensation Board, it determines, pursuant to criteria established under this Title, that such State has enacted legislation of general applicability within such

"(1) establishing a State agency having the capacity to hear or determine applica-tions based on financial need brought by or on behalf of the innocent victims of violent

crime and others suffering pecuniary loss therefrom and order the payment of such claims;

cuams;

"(2) providing for the payment of compensation for peruniary loss actually and
necessarily incurred for personal injuries or
death resulting from crimes in categories
established pursuant to section 308 of this

"(3) containing adequate provisions for he recovery of compensation substantially imilar to those contained in Part F of this

Title.

(c) Any State desiring to receive a grant under paragraph 10 of subsection (b) of section 301 of this Title shall submit to the Administration a State plan. Each such plan

(1) provide that the program for assistance under this Title is sought will be administered by or under the supervision of

administered by or under the supervision of a State agency;

"(2) set forth a program for the compensation of victims of violent crime while is consistent with the requirements set forth in subsection (b) of this section;

"(3) provide assurances that the State will pay from non-Federal sources the remaining cost of such program;

"(4) provide that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State under this Title; and

"(5) provide that the State will submit to the Administration—

the Administration—
"(A) periodic reports evaluating the effec tiveness of payments received under this Title in carrying out the objectives of the

compensation program, and

compensation program, and
"(B) such other reports as may be reasonably necessary to enable the Administration to perform its functions, including such
reports as it may require to determine the
amounts which local public agencies of that
State are eligible to receive for any fiscal year,
and assurances that such State will keep suchand assurances that such State will keep such records and afford such access thereto as the Administration may find necessary to assure the correctness and verification of such reports.
"(6) contain other data and assurances as

the Administration deems necessary and ap-

propriate

"(d) The Administration shall approve a plan which meets the requirements specified in subsection (c) of this section and it shall not finally disapprove a plan except after reasonable notice and opportunity for a hearing to such State.

BASIC CRITERIA

SEC. 107. Part C of the Omnibus Crime Con trol and Safe Streets Act of 1968, as amended, is amended by adding at the end thereof the

is amended by adding as the bit direct the following new sections:

"SEC. 308. The Administration shall establish by regulation criteria to be applied under paragraph (10) of subsection (b) of section 301 of this Title. In addition to other matters criteria shall include standards for

the persons who shall be eligible for

compensation,
"(2) the categories of crimes for which
compensation may be ordered,

'(3) the losses for which compensation be ordered, and

"(4) such other terms and conditions for the payment of such compensation as the Administration deems necessary and appro-

"SEC. 309. (a) The Administration shall "SEC. 309. (a) The amministration behavior by pay in any fiscal year to each State which has a plan approved pursuant to this Title for that fiscal year the Federal share of the cost of such plan as determined by it.

"(b) The Federal share of programs authorized by paragraph (10) of section 301 of this Title shall be 75 per centum for any fiscal year

TITLE II-GROUP INSURANCE FOR PUBLIC SAFETY OFFICERS DECLARATION OF PURPOSE

SEC. 201. It is the declared purpose of Con-Sec. 201. It is the deciared purpose of Con-gress in this title to promote the public wel-fare by establishing a means of meeting the financial needs of public safety officers, in-cluding policemen, firemen, and correctional guards, their families and dependents, through insurance where commercial plans and those available from State and local governments are not adequate and to assist and local governments to provide such

INSURANCE PROGRAM AUTHORIZED

insurance

SEC. 202. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by this Act, is further amended by adding at the end thereof the following new part

PART G-GROUP INSURANCE FOR PUBLIC SAFETY OFFICERS

"DEFINITIONS SEC. 500. As used in this part

"SEC. 500. As used in this part—
"(1) 'child' means an unmarried person
who is under 18 years of age and includes a
stepchild or an adopted child, an illegitimate
child, a student over 18 years of age, and a
child concelved prior to but born after the
personal injury or death of the public safety (2) 'dependent' means a relative or other

"(2) 'dependent' means a relative or other person who were wholly or partially dependent upon the income of the public safety officer at the time of the personal injury or death of the public safety officer;

"(3) 'full time' means such period or type of employment or duty as may be prescribed by regulation promulgated by the Administration."

by regulation pholimagace of the tration;

"(4) month' means 30 consecutive days;
"(5) 'public safety officer' means, pursuant to regulations issued by the Administration, a person who is employed by a State or unit of general local government in any activity corrections of the control of t pertaining to—

"(A) the enforcement of the criminal laws.

crime prevention, control, or reduction, including highway patrol,

"(B) a correctional program, facility or

institution, institution, "(\mathcal{C}) a court having crime jurisdiction, where the activity is determined by the Administration to be potentially dangerous because of contact with criminal suspects, described by the course of contact with criminal suspects, described by the course of contact with criminal suspects, described by the course of contact with criminal suspects, described by the course of contact with criminal suspects.

cause of contact with criminal suspects, de-endents, prisoners or paroless, or "(D) firefighting, done voluntarily or otherwise, with or without compensation; "(6) 'relative' includes the spouse, parent, grandparent, stepfather, stepmother, child, grandchild, siblings of the whole or half blood, spouse's parents, niece or nephew; and "(7) 'student' means a person who is a 'student' as defined in subsection (17) of section 8101 of title 5 of the United States Code.

Code.
"ELIGIBLE INSURANCE COMPANIES

"SEC. 501. (a) (1) The Administration is authorized, without regard to section 3709 of the Revised Statutes, as amended, to purchase in those States where it determines that commercial insurance or State plans or those offered by a unit of general local government do not provide insurance at competitive costs with comparable coverage for life, accidental death, and dismemberment insurance issued to large employers of occurations other than public safety officers from insurance issued to large employers to decay pations other than public safety officers from one or more life insurance companies a policy or policies of group life insurance to provide the benefits provided under this part. Each such life insurance company must (A) be licensed to issue life, accidental death and dismemberment insurance in each of the and dismemberment insurance in each of the fifty States of the United States and in the District of Columbia, and (B) as of the most recent December 31 for which information is available to the Administration have in effect at least I per centum of the total amount of group life insurance which all life insur-ance companies have in effect in the United States

"(2) Any life insurance company issuing such a policy shall establish an administra-tive office at a place and under a name de-signated by the Administration.

Administration shall arrange The "(3) The administration shall arrange with each life insurance company issuing any policy under this part to reinsure, under conditions approved by it, portions of the total amount of insurance under such policy with such other life insurance companies (which meet qualifying criteria set forth by the Administration) as may elect to par-

ticipate in such reinsurance.

"(4) The Administration may at any time discontinue any policy which it has pur-chased from any insurance company under this Part.

"PERSONS INSURED; AMOUNT

"Sec. 501. (a) Any policy of insurance purchased by the Administration under this Part shall automatically insure any public safety officer employed on a full-time basis safety officer employed on a full-time basis by a State or unit of local government which has (1) applied to the Administration for participation in the insurance program provided under this part, and (2) agreed to deduct from such officer's pay the amount of the premium and forward such amount to the Department of Justice or such other agency or office as is designated by the Administration as the collection agency or office for such premiums. The insurance provided under this Part shall take effect from the first day agreed upon by the Administration and the responsible official of the State or unit of general local government making apunit of general local government making sp-plication for participation in the program at opublic safety officers then on the payroll, and as to public safety officers thereafter entering on full-time duty from the first day of such duty. The insurance provided by this part shall so insure all such public safety officers unless any such officer elects in writing not to be insured under this part. If any such officer elects not to be insured under this Part he may thereafter, if eligible, be insured under this Part upon written application, proof of good health, and compliance with such other terms and conditions as may be prescribed by the Administration

"(b) A public safety officer eligible for insurance under this part is entitled to be in-surance under this part is entitled to be in-sured for an amount of group life insurance, plus an equal amount of group accidental death and dismemberment insurance, in accordance with the following schedule

7.75	ınsurər	nt of group ice is—
But not greater than - But not greater	Life	Accidental death and dismember- ment
\$0 \$8,000 \$3,000 \$0.000 \$3,000 \$0.000 \$3,000 \$0.000 \$3,000 \$0.000 \$3,000 \$0.000 \$1,000 \$0.000 \$11,000 \$11,000 \$11,000 \$11,000 \$13,000 \$13,000 \$13,000 \$13,000 \$13,000 \$15,000	\$10,000 11,000 12,000 13,000 14,000 15,000 16,000 17,000 20,000 21,000 21,000 22,000 24,000 25,000 26,000 26,000 27,000 28,000 28,000 28,000 30,000 31,000 31,000 31,000 31,000 31,000 32,000 32,000	\$10,000 12,000 12,000 14,000 15,000 16,000 17,000 18,000 20,000 21,000 22,000 23,000 24,000 25,000 27,000 27,000 28,000 27,000 28,000 28,000 28,000 29,000 20,000 20,000 20,000 20,000 21,000 21,000 21,000 22,000 23,000 24,000 25,000 26,000 27,000 27,000 28,000 2

The amount of such insurance shall automatically increase at any time the amo

of increases in the annual basic rate of pay places any such officer in a new pay brace of the schedule.

'(c) Subject to the conditions and limite tions approved by the Administration and which shall be included in the policy purchased by it, the group, accidental death, and dismemberment insurance shall provide for the following payments

LOSS AND AMOUNT PAYABLE

For loss of life—Full amount shown in ne schedule in subsection (b) of this section

Loss of one hand or of one foot or loss of sight of one eye-One-half of the amount shown in the schedule in subsection (b) of this section.

Loss of two or more members or loss of sight in both eyes—Full amount shown in the schedule in subsection (b) of this sec-

The aggregate amount of group accidental death and dismemberment insurance that may be paid in the case of any insured as the result of any one incident may not exceed the amount shown in the schedule

exceed the amount shown in the scheduler in subsection (b) of this section.

"(d) The Administration shall prescribe regulations providing for the conversion of other than annual rates of pay to annual rates of pay and shall specify the types of pay included in annual part. included in annual pay.

"TERMINATION OF COVERAGE

'Sec. 503. Each policy purchased under this Part shall contain a provision, in terms approved by the Administration, to the effect that any insurance thereunder on any public safety officer shall cease thirty-one days after (1) his separation or release from full-time duty as such an officer or (2) discontinuance of his pay as such an officer, whichever is

"CONVERSION

"SEC. 504. Each policy purchased under this Part shall contain a provision for the conversion of such insurance effective the day fol-lowing the date such insurance would cease as provided in section 503 of this Part. During the period such insurance is in force the insured, upon request to the administrative office established under section 501 of this Part, shall be furnished a list of life insurance companies participating in the program established under this Part and upon written application (within such period) to the participating company selected by the insured and payment of the required premiums be granted insurance without a medical examination on a permanent plan then currently written by such company which does not pro vide for the payment of an additional amount of premiums if the insured engages in public of premiums if the insured engages in public safety activities. In addition to the life in-surance companies participating in the pro-gram established under this Part, such list shall include additional life insurance com-panies (not so participating) which met qualifying criteria, terms, and conditions es-table in the property of the property of the pro-table lineary pre-served and property of the property of the pro-served property of the property of the pro-table lineary pre-served property of the pro-served property of the pro-table lineary pre-served property of the pro-table lineary pre-table lineary pre-party of the pro-table lineary pre-party of the pro-party of the pre-party of the pre-table pre-party of the pre-table pre-party of the pre-part sell insurance to any eligible insured in accordance with the provisions of this section

WITHHOLDING OF PREMIUMS FROM PAY

"Sec. 505. During any period in which a public safety officer is insured under a policy of insurance purchased by the Administration under this Part his employer shall with-hold each month from his basic or other pay until separation or release from full-time duty as a public safety officer an amount determined by the Administration to be such officer's share of the cost of his group life insurance and accidental death and dismem-berment insurance. Any such amount not withheld from the basic or other pay of such officer insured under this Part while on fulltime duty as a public safety officer, if not otherwise paid, shall be deducted from the proceeds of any insurance thereafter payable. The initial monthly amount determined by the Administration to be charged any public safety officer for each unit of insurance under this Part may be continued from year to year, except that the Administration may redetermine such monthly amount from time to time in accordance with experience.

"SHARING OF COST OF INSURANCE

"SEC, 506. For each month any public safety officer is insured under this part the Admin-istration shall bear not to exceed one-fourth of the cost of such insurance or such amount as may from time to time be determined by the Administration to be a practicable and equitable obligation of the ticable and equitable obligation of the United States in assisting the States and units of local government in recruiting and retaining personnel for their public safety forces

"INVESTMENT EXPENSES

"INVESTMENT EXPENSES

"SEC. 507. (a) The amounts withheld from
the basic or other pay of public safety officers
as premiums for insurance under section
505 of this part and any sums contributed
by the Administration under section 506 of
this part, together with the income derived
from any dividends or premium rate readjustment from insurers shall be deposited
to the credit of a revolving fund established
to the Credit of the United States. All
in the Treasury of the United States. to the credit of a revolving fund established in the Treasury of the United States. All premium payments on any insurance policy or policise purchased under this part and the administrative cost of the insurance program established by this part of the department or agency vested with the responsibility for its supervision shall be paid from the revolving fund.

the revolving fund.

It revolving fund the revolving fund such set aside out of the revolving fund such amounts as may be required to meet the administrative cost of the program to the department, agency or office designated by it, and all current premium payments on the any policy purchased under this part. The any policy purchased under this part the any policy purchased under this part of any policy purchased under this part of any policy purchased under this part of the Treasury is authorized to invest in and to sell and reture special interest-bearing obligations of the United States for the account of the revolving fund. Such obligations issued for the purpose of this part shall have maturities fixed with this part shall have maturities fixed with the part shall have maturities fixed with the part shall have computed by the Secretary of the Treasury on the basis of market rotations as of the end of the calendar quotations as of the end of the calendar quotations as of the end of the calendar month next preceding the date of issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest of such obligation shall be the multiple of one-eighth of 1 per centum nearest market yield. The interest on and the proceeds from the sale of these obliga-tions, and the income derived from dividend premium rate adjustments from insurers

shall become a part of the revolving fund BENEFICIARIES: PAYMENT OF INSURANCE

"Servetchares: Payment of Insurance in 'Sec. 508. (a) Any amount of insurance in force under this part on any public safety officer or former public safety officer on the date of his death shall be paid, upon estab-lishment of a valid claim therefor, to the person or persons surviving at the date of his death, in the following order or precedence:

- "(1) to the beneficiary or beneficiaries as the public safety officer or former public safety officer may have designated by a writ-ing received in his employer's office prior to his death:
- "(2) if there is no such beneficiary or no dependent, to the spouse of such officer or former officer;
- "(3) if there is no such beneficiary or no such spouse, to the dependents, in equal shares:
 - "(4) if there are both a spouse and one or

more dependents, one half to the spouse and one-half to the dependents, in equal shares;

(5) If none of the above, to the parents of such officer or former officer or to the

of such officer of former of state of the survivor of them;

"(6) if none of the above, to the duly appointed executor or administrator of the estate of such officer or former officer;

"(7) if none of the above, to other next.

"(7) If no officer or the above, to other next of kin of such officer or former officer entitled under the laws of domicile of such officer or former officer at the time of his death. "(b) If any person otherwise entitled to payment under this section does not make claim therefor within one year after the death of the public safety officer or former public safety officer or for promiser of the probability of

of a public sately white to theme was a safety officer, no claim for payment has been filed by any person entitled under the offer precedence set forth in this section, and instrative office established nor the administration introduced any notice that any such claim will be made any notice that any such claim will be made payment may be made to a claim at a made payment may be made to a claim at a made payment may be made to a claim at a made payment may be made to a claim at a made payment may be made to a claim at a made payment within four years after the death of the officer, payment has not been made pursuant to this Part and no claim for payment by any person entitled under this Part is pending, the amount payable shall escheat to the credit of the revolving fund referred to in section 507 of this Part.

credit of the revolving fund referred to in section 507 of this Part.

"(d) The public safety officer may elect settlement of insurance under this Part either in a lump sum or in thirty-six equal monthly installments. If no such election is made by such officer, the beneficiary may elect settlement either in a lump sum or in thirty-six equal monthly installments. If any such officer has elected settlement in a lump sum the beneficiary may elect settlement. sum, the beneficiary may elect settle-in thirty-six equal monthly installments

"BASIC TABLES OF PREMIUMS: READJUSTMENT

OF RATES

"SEC. 509. (a) Each policy or policies pur-chased under this Part shall include for the first policy year a schedule of basic premium rates by age which the Administration shall have determined on a basic consistent with the lowest schedule of basic premium rate generally charged for new group life hards. ance policies issued to large employers, this schedule of basic premium rates by age to be applied, except as otherwise provided in this section, to the distribution by age of the amount of group life insurance and group accidental death and dismemberment insurance under the policy at its date of issue to ance under the policy at its date of issue to determine an average basic premium per \$1,000 of insurance. Each policy so purchased shall also include provisions whereby the basic rates of premium determined for the first policy year shall be continued for subnrst policy years, except that they may be readjusted for any subsequent year, based on the experience under the policy, such readjustment to be made by the insurance company issuing the policy on a basis determined by the Administration in advance of such year to be consistent with the general practice of life insurance companies under policies of group life insurance and group accidental death and dismemberment insur-

accidental death and dismembershell lisur-ance issued to large employers. "(b) Each policy so purchased shall in-clude a provision that, in the event the Administration determines that ascertaining

the actual age distribution of the amounts the actual age distribution of the amounts of group life insurance in force at the date of issue of the policy or at the end of the first or any subsequent year of insurance thereunder would not be possible except at a disproportionately high expense, the Administration may approve the determination of a tentative average group life premium. for the first or any subsequent policy year, in lieu of using the actual age distribution. Such tentative average premium rate shall be redetermined by the Administration during any policy year upon request by the insurance company issuing the policy, if experi-ence indicates that the assumptions made in determining the tentative average premium rate for that policy year were incorrect. "(c) Each policy so purchased shall con-

tain a provision stipulating the maximum expense and risk charges for the first policy year, which charges shall have been deter-mined by the Administration on a basis consistent with the general level of such charges made by life insurance companies under policies of group life insurance and group policies of group life insurance and group accidental death and dismemberment insur-ance issued to large employers. Such maxi-mum charges shall be continued from year to year, except that the Administration may redetermine such maximum charges for any year either by agreement, with the insurance company or companies issuing the policy or upon written notice given by the Ad-ministration to such companies at least one year in advance of the beginning of the year for which such redetermined maximum charges will be effective.

charges will be effective.

"(d) Each such policy shall provide for an accounting to the Administration not later than ninety days after the end of each policy year, which shall set forth, in a form approved by the Administration. Such accounting shall include: (1) the amounts of premiums actually accrued under the policy and the property of the property of the policy of the provided that the policy of the property of the provided that the policy of the provided that the pr premiums actually accrued under the policy from its date of issue to the end of such policy year, (2) the total of all mortality dismemberment, and other claim charges incurred for that period, and (3) the amounts of the insurers' expense and risk charge for that period. Any excess of the total of items (1) over the sum of items (2) total of items (1) over the sum of items (2) and (3) shall be held by the insurance company issuing the policy as a special contingency reserve to be used by such insurance company for charges under such policy only, such reserve to bear interest at a rate only, such reserve to bear interest at a rate to be determined in advance of each policy year by the insurance company issuing the policy, which rate shall be approved by the Administration as being consistent with the rates generally used by such company or companies for similar funds held under other group life insurance policies. If and when the Administration determines that such special contingency reserve has attained an amount estimated by the Administration to make satisfactory provision for adverse fluctuations in future charges under the policy, any further excess shall be deposited to the credit of the revolving fund established under this If and when such policy is discon-i, and if, after all charges have been tinued. tinued, and if, after all charges have been made, there is any positive balance remaining in such special contingency reserve, such balance shall be deposited to the credit of the revolving fund, subject to the right of the insurance company issuing the policy to make such deposit in equal monthly installments over a period of not more than two years.

"BENEFIT CERTIFICATES

"SEC. 510. The Administration shall arrange to have each public safety officer insured under a policy purchased under this part receive a certificate setting forth the benefits to which the member is entitled thereunder, to whom such benefit shall be payable, to whom claims should be submitted, and summarizing the provisions of the policy principally affecting the member.

Such certificate shall be in lieu of the certificate which the insurance company would otherwise be required to issue.

USE OF "AUTHORIZATION FOR APPROPRIATIONS

"SEC.511. Until specific appropriations are "Sec. 511. Until specific appropriations are made for carrying out the purposes of this part, any appropriation made to the Department of Justice or the Law Enforcement Assistance Administration for grants, activities or contracts shall, in the discretion of the Autorney General, be available for payments of obligations arising under this

ADVISORY COUNCIL ON PUBLIC SAFETY OFFICERS GROUP LIFE INSURANCE

"SEC. 512. There is hereby established an Advisory Council on Public Safety Officers' Group Life Insurance consisting of the At-torney General as Chairman, the Secretary of the Treasury, the Secretary of Health, Edu-cation, and Welfare, and the Director of the Canon, and welfare, and the Electro of the Office of Management and Budget, each of whom shall serve without additional compersation. The Council shall meet not less than once a year, or at the call of the Attorney General, and shall review the administration of this title and advise the Attor-ney General on matters of policy relating to his activities thereunder. In addition, the Attorney General may solicit advice and recommendations from any State or unit of local government participating in the public safety officers' group life insurance program

PREMIUM PAYMENT ON BEHALF OF PUBLIC SAFETY OFFICERS

Sec. 513. Nothing in this part shall be "SEC. 513. Nothing in this part shall be construed to preclude any State or unit of local government from making payments on behalf of public safety officers of the premi-ums required to be paid by them for any group life insurance program authorized by this part or any such program carried out a State or unit of local government."

AMENDMENT TO LAW ENFORCEMENT ASSISTANCE PROGRAM

SEC. 203. (a) Subsection (b) section 301 of part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968 as amended by this Act is further amended by adding at the end thereof the following new paragraph:

"(11) The establishment of one or more separate or combined statewide group life, accidental death and dismemberment insurance programs for public safety officers as defined in paragraph (5) of section 500 of Part G of this title.

(b) Subsection (d) of such section amended by striking out the first word and inserting in lieu thereof the following: "Except for grants made pursuant to para-graph (11) of subsection (b) of this section

DEATH AND DISABILITY BENE-TITLE III-FITS FOR PUBLIC SAFETY OFFICERS

DECLARATION OF PURPOSE

SEC. 301. It is the purpose of this title to promote the public welfare by establishing a Federal minimum death and dismemberment benefit to public safety officers, their families and dependents

SEC 302. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by this Act, is further amended by adding at the end thereof the following new

"PART H-DEATH AND DISABILITY BENEFITS FOR PUBLIC SAFETY OFFICER

"DEFINITIONS

"SEC. 525. As used in this Part—
"(1) 'child' means an unmarried person who is under eighten years of age and includes a stepchild or an adopted child, and lilegitimate child, and student over 18 years of age, and a child conceived prior to but born

after the personal injury or death of the vic-

"(2) 'dependent' means a relative or other person who was wholly or partially depend-ent upon the income of the victim at the time of the personal injury or death of the

victim iblic safety officer' means, pursuant to regulations issued by the Administration, a person who is employed by a State or unit of general local government in any activity

pertaining to—

"(A) the enforcement of the criminal laws crime prevention, control or reduction, including highway patrol,
"(B) a correctional program, facility or in-

stitution

"(C) a court having crime jurisdiction, where the activity is determined by the Administration to be potentially dangerous because of contact with criminal suspects, de-

cause of contact with criminal suspects, de-fendants, prisoners or paroless, or "(D) firefighting, done voluntarily or oth-erwise, with or without compensation; erwise, with or without compensation; grandparent, stepfather, stepmother, child, grandparent, stepfather, stepfather, child, grandparent, stepfather, stepfather, stepfather, child, grandparent, stepfather, stepfather, child, grandparent, stepfather, stepfather, stepfather, child, grandparent, stepfather, stepfather,

"(5) 'student' means a person who is a 'student' as defined in subsection (17) of section 8101 of title 5 of the United States

"DEATH AND DISABILITY BENEFITS FOR PUBLIC SAFETY OFFICERS

"SEC. 526. (a) Under regulations issued by the Administration under part I of this title, upon certification to the Administration by the Governor of any State that a public safety the Administration under part 1 of this titler, upon certification to the Administration by the Governor of any State that a public safety officer employed on a full or part time basis has been killed or disabled as the result of a criminal act in the line of duty, the Administration shall pay a benefit as provided in subsection (a) of this section 527 of this part in the following order of precedence:

"(1) If the public safety officer was dispart in the following order of precedence and the property officer was tilled and there are both a safety officer was killed and there are both a spouse and one-half to the dependents of the public safety officer was killed and there are both a spouse and one-half to the dependents one-half to the opinion of the companion of the property of the property of the property of the companion of the property of the part is in addition to any benefits to which he may be entitled under any other law other than compensation for pecuniary loss made pursuant to part F of this title or a State program established under paragraph (10) of section 301 of part C of this title.

"(c) The benefit payable to any person under this part may be made in lump sum, in such equal monthly installments, or in such equal monthly installments, or in such other fashion as the Administration determines will be appropriate.

"(d) No award made pursuant to this part shall be subject to execution or attachment other than for pecuniary loss resulting from the Injury or death which is the basis for the certification.

"Awards

"AWARDS"
"AWARDS"
"Sec. 527. (a) Whenever the Administration determines, prior to acting upon a certification that—such certification is one with
respect to which a benefit will probably be
made, the Administration may make interim
benefit payments to the public safety officer,
spouse or dependents pending a final certification of the Governor.
"(b) The amount of any interim benefit
paid under subsection (a) shall be deducted
from the amount of any final benefit paid
to the public safety officer, spouse or dependent.

pendent.

"(c) Where the amount of any interim benefit paid under subsection (a) exceeds the amount of the final benefit, or if there is no final benefit paid, the recipient of any such interim benefit shall be liable for re-

payment of such amount in accordance with rules and regulations prescribed by the Ad-ministration. The Administration may waive all or part of such repayment where in its judgm ent such repayment would envoke severe hardship.

"LOSS AND AMOUNT PAYABLE

"Death, fifty thousand dollars.
"Loss of one hand or of one foot or loss of ight of one eye, twenty-five thousand dol-

"Loss of two or more members or loss of sight in both eyes, fifty thousand dollars." AMENDMENT TO THE INTERNAL REVENUE CODE OF 1954

SEC. 528. Section 101(b)(2)(A) of the Internal Revenue Code of 1954 (relating to death benefits excluded from gosss income) is amended to read as follows:

\$5,000 LIMITATION.—The aggregate amounts excludable under paragraph (1) with respect to the death of any employee shall not exceed \$50,000 except that not to exceed \$50,000 shall be excludable under the provisions of Part L of the Omnibus Crime Control and Safe Streets Act of 1988, as amended."

"(d) Subject to conditions and limita-tions as he may establish, the Administra-tion shall provide for the following pay-

TITLE IV-CIVIL REMEDIES FOR VICTIMS OF RACKETEERING ACTIVITY

PURPOSE

SEC. 401. It is the purpose of this title to promote the general welfare by strengthening the civil remedies available to the victim of racketeering activity.

EXPANDED JURISDICTION SEC. 402. (a) Section 1964 of Title 18 of the

SEC. 402. (a) Section 1944 of THE 18 of the United States Code is amended by—
(1) inserting in subsection (a) ", without regard to the amount in controversy," immediately after "jurisdiction."
(2) inserting in subsection (b) "subsection (a) of" after "under" each time it appraise.

(3) striking out in subsection (b) "action" and inserting in lieu thereof "proceed-

ings"; and dissenting in few thereby piccessings, and (4) striking subsections (c) and (d) there of in their entirety and inserting in lieu thereof the following:

"(c) Any person may institute proceedings under subsection (a) of this section. In any proceeding brought by any person under subsection (a) of this section, relief shall be granted in conformity with the principles which govern the granting of injunctive relief from threatened loss or damage in other cases. Upon the execution of proper bond against damages for an injunction improvidently granted and showing of immediate danger or irreparable loss or damage, a preliminary injunction may be issued in any action before a determination thereof upon its merits.

"(d) Whenever the United States is in-jured in its business or property by reason of any violation of section 1962 of this chap-ter, the Attorney General may bring a civil action in a district court of the United States, without regard to the amount in con-troversy, and shall recover the actual cam-ages sustained by it, and the cost of the ac-tion.

"(e) Any person who is injured in his business or property by reason of any violation of section 1963 of this chapter may bring a civil action in a district court of the Jinited States, without regard to the amount in controversy, and shall recover threefold the actual damages sustained by him, and the cost of the action, including a reasonable attorney's fee. "(f) The Attorney General may upon timely application intervene in any civil action or proceeding brought under this chapter, if the Attorney General certifies that in "(e) Any person who is injured in his busi-

his opinion the case is of general public importance. In such action or proceeding, the United States shall be entitled to the same relief as if it had instituted the action

same relief as if it had instituted the action or proceeding.

"(g) A final judgment or decree rendered in favor of the United States in any oriminal or civil action or proceeding under this chaptor of the states of the defendant in any subsequent civil proceeding as to all matter respecting which said judgment or decree would be an estoppel as between the parties thereto.

would be an estoppel as between the parties thereto.

"(h) Except as hereinatter provided, any divil action under this section shall be barred unless it is commenced within five years after the cause of action accrued. Whenever any civil or criminal action or proceeding, other than an action under subsection (d) of this section, is brought or intervened in by the United States to prevent, restrain, or punish any violation of section 1962 of this chapter her running of the period of limitations prescribed by this subsection with respect to any cause of action arising under subsections (c) and (e) of this section, which is based in whole or in part on any matter complained of in such action or proceeding by the United States, shall be suspended during the pendency of such action or proceeding by the United States and for two years thereafter."

(b) Section 1965 of title 18 of the United States and for two years thereafter."

(c) Section 1965 of title 18 of the United States code is amended by—

(1) strikling out in subsection (b) "accionance arctin 1964 of," and insertine the consumer to the consumer to the output proceeding under section 1967 of "and inserting the consumer to the output processing and the consumer to the output process."

(1) striking out in subsection (b) "action under section 1964 of" and inserting in lieu thereof "civil action or proceeding under

(2) striking out in subsection (c) "insti-

(2) String Out in subsection (c) "insti-tuted by the United States"; and (3) inserting in subsection (d) "civil or criminal" immediately before "action". (c) Section 1966 of title 18 of the United

(c) Section 1966 of title 18 of the United States Code is amended by striking "any civil action instituted under this chapter by the United States" in the first sentence and in-serting in lieu thereof "any civil action or proceeding under this chapter in which the United States is a part.

proceeding under this chapter in which the United States is a part".

(d) Section 1967 of title 18 of the United States Code is amended by striking "instituted by the United States".

(e) Section 1986 of title 18 of the United States Code is amended by—

(1) striking out "prior to the institution of a civil war or criminal proceeding" in the first sentence of subsection (a) and inserting in lieu thereof "before he institutes or intervenes in a civil or criminal action or proceeding";

intervenes in a civil or criminal action or proceeding; (2) striking out "case" the first time it appears and inserting in lieu thereof "civil or criminal action" in paragraph (4) of subsection (f) and striking out "case" each time it appears thereafter and inserting in lieu thereof "action"; (3) striking out "case" each time it an

(3) striking out "case" each time it appears in paragraph (5) of subsection (f) and inserting in lieu thereof "action"; and (4) striking out "case" and inserting in lieu thereof "action" in paragraph (6) of

lieu thereof "subsection (f).

TITLE V-MISCELLANEOUS PROVISIONS REPEALS

REPEALS

SEC. 501. (a) Section 4-531 of the District
of Columbia Code is hereby repealed.
(b) Subchapter III of chapter 81 of title 5
of the United States Code is hereby repealed.
(c) The provisions of subsection (a) and
(b) of this section shall have no effect on
benefits, awards, or gratuities made or aiready being made prior to the date of enactment of this Act.

AUTHORIZATIONS OF APPROPRIATIONS

Sec. 502. Section 569 of the Omnibus Crime Control and Safe Streets Act of 1868 as amended, and as redesignated by this Act is amended by inserting immediately after "559" "(a)" and by adding at the end there-of the following new subsections:

"(b) There is authorized to be appropriated for the fiscal year ending June 30, 1973—
"(1) \$10,000,000 for the purposes of part

F; "(2) \$20,000,000 for the purposes of par

"(2) \$20,000,000 for the purposes of paragraph (10) of subsection (b) of section 301 of part C.

"(c) There is authorized to be appropriated \$25,000,000 for the fiscal year ending June 30, 1972, and \$80,000,000 for the fiscal year ending June 30, 1973, for the purposes of part

"(d) There are authorized to be appropriated \$40,000,000 for the fiscal year ending June 30, 1972, and \$20,000,000, for the fiscal year ending June 30, 1973, for the purposes of part H.

SEVERABILITY

SEC. 503. If the provisions of any part of this Act are found invalid or any amend-ments made thereby or the application thereof to any person or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATES

SEC. 504. (a) Title I of this Act shall be come effective one hundred and eighty days after the date of enactment of this Act.

(b) (1) Title II of this Act shall become

effective on the date of enactment of this

(2) The insurance provided for under title II of this Act shall be placed in effect on the earliest practicable date approved by the Law Enforcement Assistance Administration of the Department of Justice.

(c)(1) Title III of this Act shall become effective with respect to any disability or death of a public safety officer as defined in paragraph (5) of section 525 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by this Act, on or after January 1, 1967.

(2) Any amount already paid to a public safety officer, spouse, or dependent as defined in paragraphs (3) and (5) of section 525 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by this Act, pursuant to Federal law for the disablement or death of such public safety officer shall be deducted from any benefit paid under title III of this Act.

SIXTH REPORT: CRIMINAL INJURIES COMPEN-SATION BOARD—ACCOUNTS FOR THE ENDED MARCH 31, 1970

(Presented to Parliament by the Secretary of State for the Home Department and the Secretary of State for Scotland by Com-mand of Her Majesty October 1970)

To: The Secretary of State for the Home De-partment; The Secretary of State for Scotland

Sms: We have the honour to submit this our Sixth Report.

1. VOLUME OF WORK

The number of new applications for com-pensation received in each quarter of the year 1st April 1969 to 31st March 1970 compared with the two previous years was as follows

	1969-70	1968 69	1967-68
Quarter: 1st(Apr. 1-June 30). 2d (July 1 Sept. 30). 3d (Oct. 1-Dec. 31). 4th (Jan. 1-Mar. 31).	1, 683 1, 723 1, 836 2, 005	1, 610 1, 501 1, 598 1, 728	1,010 1,000 1,632 1,674
Total	7,247	6, 437	5, 316

In our Fifth Report we forecast the receipt of 7,000 applications this year. We considered that there was a levelling out in the rate of growth of our work but it will be seen that the figures are still growing and we forecast least 8,000 applications in the year 1970The analysis of these figures in Appendix A shows that the increase in the number of applications from Scotland was only 11, whereas there was 730 more cases from England and 69 more from Wales.

2. NUMBER OF CASES RESOLVED

6,817 cases were resolved as shown below:

	1969	-70	1968	-69	1967	-68
	Num- ber	Per- cent	Num- ber	Per- cent	Num- ber	Per-
By single members. By 3 members at	6, 093	89	5, 478	92	3,583	93
hearings Withdrawn or	.600	9	434	7	238	6
abandoned by applicant	124	2	73	1	All	1
Total	6, 817		5, 985		3, 869	

It will be seen that there is again a rise in the percentage of cases disposed of at hearings. See paragraph 12 below.

The following table shows the time taken to resolve applications:

1969-70 (per- cent)	1968-69 (per- cent)	(per-
39	31	27
39	42	44
15	17	19
5	7	7
	(per- cent) 39	(per- cent) (per- cent) 39 31 39 42

The increased percentage of cases resolved in not more than three months demonstrates in not more than three months demonstrates the ability of the Board's staff to deal speedily with straightforward cases. Although the final disposal of cases of more serious injury may take longer, an interim payment may be made as soon as it is established that the case comes within the scope of the Scheme. The number of interim awards made was 510, compared with 234 in 1968-69 and 185 in 1967-68.

3. THE COST OF THE SCHEME

In the year 1969-70 nearly two million pounds were paid out in compensation as follows:

England	 £1, 524, 099
Scotland	 386, 750
Wales	 85, 73

1.996.584

Since the Scheme began on 1st August 1964 we have paid out £6,313,624. The administrative expenses for the year 1969—70 were £207,686, representing 9.4 per cent of the total expenditure, compared with 9.6 per cent tal expenditure, compared with 3.5 per cent in 1968-95. The average cost of a case ro-solved at single member stage was £23 3s. 0d., a decrease of 17s. 0d. on the cost in 1968-69. In cases which went to a hearing before three members the additional average cost was £66 16s. Od., compared with £74 0s. Od last year. The total average cost of each case resolved at a hearing was therefore £89 19s

4. THE WORKING OF THE SCHEME

The great bulk of our work consists of as sessing the compensation which should be paid to applicants who are plainly the inno-

paid to applicants who are plainly the inno-cent victims of criminal assaults. After six years' experience we repeat the observations made in paragraph 15 of our First Report: "It is true that many of the applications submitted relate to compensation paid is cor-respondingly smail. But no one who is called to deal with those cases in which a blameless victim has been seriously disabled, sometimes for life, or with those cases in which the el-derly and infirm have suffered injury and and infirm have suffered injury and

shock, can fail to feel deeply what a worthwhile part is played in the full administra-tion of justice by the power to award compensation.

The object of the Soheme is to ensure that the innocent victims of crimes of violence are compensated and that in appropriate cases the application is either rejected alto-gether or a reduced award made. There are no clear and distinct lines which can be drawn to separate these three classes.

In the following paragraphs we discuss at some length borderline cases which present such difficult problems but it must be remembered that they represent only a fraction of our work.

5. THE MODIFIED SCHEME

The modified Scheme came into effect on 21st May 1969 and was intended to strengthen the Board's hand to reject undeserving cases. Before the Scheme was modified, we were required, under paragraph 12, to consider whether because of provocation or otherwise, the victim bore any share of responsibility, and in accordance with our assessment of the degree of responsibility, to reduce the award or reject the claim altogether. Paragraph 17 of the modified Scheme severe range and 17 of the modulet as a wide discretion to reduce an award or reject a claim altogether if, having regard to the vic-tim's conduct, including his conduct before and after the incident, and to his character and way of life, we consider that it is inap-propriate that he should receive a full award or any award at all. This discretion has not been easy to exercise for we are not all of one mind and the diversity of the circumstances of the cases which come before us is very great. We are anxious to produce a consistent approach to the problem and have set out in this report a number of typical cases illustrative of the way in which the Board has applied paragraph 17.

Voluntary participation in a fight

(1) An applicant became involved in a fight with his assailant, whom he knew to be violent, and was injured. No weapons were used, and we were satisfied that the applicant willingly entered the fight. Following decisions in similar cases under the unmodified Scheme, we refused an award.

(2) We have made reduced awards to applicants injured in fights which began in similar circumstances, but which took a turn which could not be foreseen, as follows:

(a) The applicant was in a public house when a man with whom he was on bad terms entered, and the applicant persistently offered to fight him outside. The man eventually agreed after he and the licensee had unsucagreed after he and the licensee had unsuc-cessfully tried to get the applicant to keep quiet. In the fight the man knocked the ap-plicant down, and while he lay helpiess on the ground the offender kicked and stamped on his head, fracturing his cheekbone, Jaw and skull. We made an award, albett a re-duced one, on the grounds that the violence used was out of all proportion to the provoca-

(b) An applicant and his assailant started to fight in a club, and both fell downstairs. The applicant injured his ankle. They were then thrown out into the street. The ap-plicant told the assailant he could no longer defend himself, but the assailant knocked him to the ground and fractured his jaw. The applicant first told the police that he had received his injury by falling downstairs and he did not wish to make a statement.

Later he made a full statement and the assailant was charged and acquitted. The applicant's original failure to co-operate with the police and his voluntary participation in a fight were reprehensible and we made are due and a section of a section o a reduced award.

(3) We made a reduced award to an ap-plicant who accepted a challenge to fight, and during the fight was struck on the head

from behind by his opponent's wife, using a broken chair leg.

Conduct, character and way of life

(4) A single member rejected the appli-cation of a professional housebreaker who in the early hours of the morning was disin the early house of the house he had broken into. He ran away and the householder discharged his shotgun in the general direction of the housebreaker's retreating figure, peppering him with shot. We did not consider that it was appropriate that those injured whilst engaged in criminal ac-

those injured whilst engaged in criminal activities should receive an award.

(5) (a) Taking into account the applicant's character and way of life we refused an award to a man who was assaulted and severily injured outside a public house. He had numerous convictions over a period of 18 years, mostly for offences involving dishonesty. His assailants were known to him and there was some suggestion of an earlier incident to which the assault may or may not incldent to which the assault may or may not have been related. We considered that it was inappropriate that public money should be spent on compensating the applicant for injuries received in an assault for which no satisfactory explanation exculpating him was given.

(b) But we made an award to a young man who was slashed with a razor after leav-ing a public house where he and his wife had been listening to a pop group. He had a num-ber of convictions for theft, but for two years had been in regular employment. We were satisfied that he was the victim of a brutal and motiveless assault, which was wholly unconnected with his former way of life. It was therefore appropriate that he should receive a full award

6. REPORTING TO THE POLICE

The original Scheme provided that com-pensation would not be payable unless the pensation would not be payable unless the circumstances of the injury had been re-ported to the police without delay, or had been the subject of criminal proceedings in the courts. The requirement could be waived, but the conduct of the applicant after the incident in which he received his injury could not be taken into account. The requirement is repeated in paragraph 6(b) of the modified Scheme, while paragraph 17 enables us to take into consideration the applicant's conduct both before and after the incident

We have always considered that when an applicant reports an incident to the police he must report the full circumstances of his injury and that he does not fulfil the requirements by reporting such of the circum-

we attach great importance to these two provisions, for if violent crime is to be conprovisions, for it violent crime is to be con-tained it is essential that the police should be informed as soon as possible, and that the victim should give them every assistance in bringing the offender to justice. We do not therefore waive the requirement of para-graph 6(b) save in exceptional circum-stances.

(1)(a) We waived the requirement in the (1) (a) We waived the requirement in the case of a 6 year old boy, who lost his eye when hit by a piece of slate deliberately thrown at him by a playmate. The boy's father did not report the circumstances to the police for a month. The assailant was not charged because of his age.
(b) We also waived the requirement in a case where we were satisfied that the applicant had reasonable grounds for believing that the circumstances had been reported to

that the circumstances had-been reported to

the police the police.

(c) But we refused to waive the requirement in the case of an applicant of full age, who did not report an incident in the street in which he received a broken jaw, although we were satisfied that his case was in other respects within the Scheme.

(2) An amplicant who refused to the a

(2) An applicant who refused to give

full description of the incident and told the police that he knew who his assailants were and would deal with them himself, was refused an award.

(3) The full circumstances of the injury

(3) The full circumstances of the injury must be reported.

(a) A youth was assaulted outside a flah and chip shop and his girl friend made a 999 call to the police. By the time they arrived the youth and his girl friend had gone to hospital and the proprietor of that shop was unable to give the police any information. The youth received out-patient atment for three weeks and then reported to the police

(b) The father of an applicant reported to the police that his son had been admitted to hospital but was not himself able to give any information as to the circumstances. When

information as to the circumstances. When seen by the police the applicant refused to give any information. Both these applicants were refused awards. (4) We have held that fear of reprisals no ground for waiving the requirement, and we disallowed the claim of two brothers who did not report the incident until their as-

and not report the incident until their as-saliants were in custody awaiting trial on other more serious charges. (5) (a) An applicant did not report to the police until six weeks after he was injured. His assailant was then prosecuted and pleaded guilty. Although the provisions of paragraph 6(b) were compiled with in that the matter was the subject of criminal pro-ceedings, we made a reduced award because of his conduct in failing to play his part in bringing the offender to justice.

(b) But we made a full award to an appli-

cant who was advised by the police after investigations, that the appropriate charge against his assailant would be for common assault contrary to section 42, Offenses Against the Person Act 1861. After consult-Against the Person Act 1861. After consulting his union he told the police that he did not wish them to take any further action. A summons for assault, which would have barred his civil claim, could not be issued without his consent and we did not consider his conduct such as to require a reduction under paragraph 17.

7. THE CRIME OF VIOLENCE

(1) Another change in the Scheme was to require the applicant to show that his in-juries were directly attributable to a crime juries were directly attributable to a crime of violence (including arson and poisoning) whereas under the former Scheme he was only required to show that his injuries were directly attributable to a criminal offence. One of the reasons for this change is that a contract of the Pasionry Acts is a criminal offence. The contract of the Pasionry Acts is a criminal offence of the Pasionry Acts is a criminal offence of the Contract of the Pasionry Acts is a criminal offence of the Pasionry Acts is a criminal of the Pasionry Acts is a criminal offence of the Pasionry Acts is a criminal of the Pasionry Acts in the Pasionry Acts is a criminal of the Pasionry Acts in the Pasionry A

rence and the Scheme was piainly never in-tended to permit an application to the Board instead of an action for breach of the statu-tory duty imposed by the Factory Acts.

(a) We made an award to a boy whose in-juries were directly attributable to a breach of section 2 of the Explosive Substances Act of 1883. The boy and his friends were wall-ing through a wood when they saw a burning ling through a wood when they saw a burning rope hanging from a tree. They tried to put it out but there was an explosion and the boy received an injury to his face. The rope was identified by the police as a piece of fuse, and there were a number of detonators attached to it. These had recently been stolen from a nearby quarry, but the culprits were not traced.

(b) We also made an award to a pedestrian who was knocked down by a driverless taxi which had been set in motion by two drunken men after an argument with the driver, who had gone to fetch the police. The criminal

nad gone to fetch the police. The criminal act of the two men was likely to result in personal injury to those lawfully using the highway and was thus a crime of violence.

(2) We decided that in order to obtain an award for personal injuries directly attributable to an arrest of a suspected offender, an applicant must satisfy us that he himself was taking part in an arrest or attempted ar-

rest. We therefore refused to make an award to a woman in a multiple store who was accidentally knocked over when a store detec-tive was chasing a suspected shoplifter.

8. THE IMPROVIDENT APPLICANT

We have found the discretion under paragraph 18 to make special arrangements for the administration of any money awarded as compensation most useful.

compensation most useful.

In a case where a substantial sum of money is involved and we doubt whether the applicant, though of full age, will use it wisely we invite him or her to submit a plan showing how it is proposed to use the money. We may suggest that the applicant should consult a solicitor or a bank manager and take active advice before submitting the plan to us and asking for the release of the money. It is not possible, or perhaps desirable, for us to supervise the spending of the money, but this procedure ensures that consideration is given to the problem and that the danger of fittering away the compensation is brought home to the applicant.

9. MEMBERS OF THE FAMILY

9. MEMBERS OF THE FAMILY

(1) The amendment to paragraph 7 (which excludes the claim of a victim who was living with the offender at the time as a member of the same family) clarifies the position of persons living together as man and wife.

(a) An applicant associated with a mer-chant seaman for a number of years. He regarded her home as his, and stayed there when he was not at sea. He contributed regularly to housekeeping expenses, and she prepared his meals and did his washing. He usually occupied a single room, but they slept together from time to time. He was anxious to marry her, but she refused. After

a quarrel over the question of marriage he assaulted her. Her claim was rejected.

(b) An applicant was assaulted by his wife's brother, whom he reluctantly agreed to allow to stay in his house on realease from Borstal. The assallant was not provided with a room, but slept on a couch in the kitchen. He paid no rent, was not given a door key, and was given meals about twice a week. He had been told to go as soon as he could find other accommodation. The applicant's claim was disallowed.

The number of claims rejected and the number of reduced awards are as follows:

10 NIL AND REDUCED AWARDS

	1969	70	1968	69	1967	-68
	Num- ner	Per- cent	Num- ber	Per- cent	Num- ber	Per
Rejected Reduced .	. 1, 079 340	15 5	852 232	14	331 148	

We have continued to apply the principle that it is for the applicant to make out his case and in order to receive a full award he must satisfy us not only that his injuries

he must satisfy us not only that his injuries were directly attributable to a crime of violence but also that his conduct, character and way of life does not disentitle him.

(a) An applicant, drinking with his friends in a public house, got involved in an argument, and he received cuts on his face from broken glass. No question of amnesia arose but by reason of the amount of drink he had

but by reason of the amount of drink he had taken the applicant could not remember how he received his injury. His friends heard a commotion and the sound of breaking glass at the other end of the bar; they did not see what happened. We made no award.

(b) On the other hand, we made an award to an applicant who was blinded by shotgun pellets, although the man who fired the gun was acquitted. He was walking in front of the applicant, carrying a shotgun which he knew to be loaded. He turned round, put the gun to his shoulder and aimed at the applicant the gun was in office and the gun was in office and the gun was in off. The gun was in plicant and the gun went off. The gun was in good condition, and required a trigger pressure of at least $4\frac{1}{2}$ lbs. We were satisfied that on balance of probabilities the gun was not fired accidentally and that an offence under section 20, Offences Against the Per-son Act 1861, had been committed.

(c) A bus caught fire, and one of the pas sengers who was injured by jumping from the top deck applied for compensation. The fire started when a container of inflam-mable material, probably petrol, ignited. The container was brought on to the bus by an unidentified passenger, who, before the fire started, was seen to be smoking. He was never traced. We decided that the fire was caused by the negligent act of the unidentified passenger, which did not constitute a ordine. He committed an offence under the Public Serv-ice Vehicle Regulations 1936 by bringing the container on to the bus, but the applicant's injuries were not directly attributable to that offence.

11. LAW ENFORCEMENT

15 awards were made to persons who were injured while assisting the police to prevent a crime being committed or to effect an arrest. The numbers in previous years were: 1968-69 19; 1967-68 19.

132 awards were made to persons who at-tempted to prevent a crime or arrest an offender, a small increase over the numbers in previous years which were: 1968-69 121; 1967-68 100.

Awards to policemen on duty number 851 compared with 704 in 1968-69.

12. HEARINGS

600 cases were decided at hearings repreoot cases were decided at hearings representing 9 per cent of all cases resolved compared with 7 per cent in 1968-69, 6 per cent in 1967-68, and 5 per cent in 1967-69. Of these 600, 122 concerned the amount of the award, 384 concerned a refusal of compensation on the merits, and 41 a refusal under the low limit; 53 were referred by a single member. Full details are to be found in Appendix C.

Hearings were held on 114 days, of which 37 were in London, 44 in English provincial cities, 30 in Scotland and 3 in Wales.

The high percentage of cases in which the amount of the award was increased at a hearing might be thought to cast doubt on the validity of the single member procedure but we are confident that such doubt is un-

justified.

Firstly, only 23 applicants out of 1,000 question the amount of the award made by the single member. Secondly, when requesting a hearing the applicant often puts forward some new head of claim or disability which he has not previously mentioned. Thirdly, a medical prognosis which is too optimistic may well lead to a hearing, whereas one that is less optimistic will not. Fourthly, whereas in the Courts an appeal is only allowed if the original sward was as one that is less optimistic will not. Fourthly, whereas in the Courts an appeal is only allowed if the original award was wholly erroneous, we rehear the case and sometimes make a very small increase in the single member's award.

We are satisfied that the single member procedure works well and is both expeditious and inexpensive and that the right to de-mand a hearing provides a sufficient safeguard.

It will be seen that after rejection by the single member on the merits 148 applicants obtained awards at the hearing and 236 did not. Less than 40 per cent achieved any benefit from requesting a hearing. Furthermore, 62 per cent of those applicants whose claims were rejected by the single member accepted his rejection although they had nothing to lose by demanding a hearing.

13. REPARATION FROM OFFENDERS

13. REPARATION FROM OFFENDERS

There were only 19 cases where we felt that we could usefully sue the offender if we had the power to do so. The comparable figure in 1968-69 was 21. One case where reparation has been made is worthy of mention. Four years ago we made an interim award of £1,000 to a boy of 9 who was blinded because another boy threw lime into his eyes. The victim was taken into a convent to be educated and trained and although we were anxious that the award should be used for his benefit, the interest earned on the money was more than enough earned on the money was more than enough to meet his needs. Subsequently damages were recovered in an action brought on the boy's behalf in the Court and the £1,000 was repaid under paragraph 24 of the

We would like to repeat the tribute we paid in paragraph 14 of our Fourth Report to the help given to the Board by welfare organisations and local authorities.

We have always believed that subject to proper investigation, cases should be disposed of as quickly as possible, so that appli-cants may derive the maximum benefit from cants may derive the maximum benefit from their awards. Over the past few years, the number of cases at any one time under in-vestigation by the staff has been between 2,600 and 3,000, representing about 4½ months' instake of new cases. Although the time taken to investigate a case depends to some extent on factors outside our control, we keep our procedures

under constant review, in the hope of im-proving these figures.

Over the past three years there has been an average increase in productivity of 10 per cent a year—arrived at by dividing the cases finally disposed of during the year by the number of staff in post. Recently, however, number of staff in post. Recently, however, we have had a large influx of new staff, partly due to an increase in our complement by 7 to 65, and partly to the termination of the secondment of experienced officers. This has resulted in a drop in the number of completed cases which we hope will

ber of completed cases which we hope will be only temporary. In estimating our staff requirements, it should be recognised that while the volume of work continues to increase, and while our staff is temporarily seconded from other departments, a proportion of the staff will al-ways be under training and not fully effec-

If allowance is not made for these factors we will be faced with an everincreasing load of pending cases, to the detriment of the staff's efficiency and morale.

In February, the secondment of Mr. J. Hamilton was terminated at very short notice, when he was posted on promotion to the Immigration and Nationality Department. He had been the Board's Chief Excutive Officer since the Scheme started, and we wish to record our great appreciation of his services, particularly in the fields of finance, statistics and public relations. During that time he devoted himself without stint to the work of the Board, and we have very reason to be grateful to him for the part he played. We welcome Mr. F. Carter as his successor. WALKER CARTER

SEPTEMBER 1, 1970

CRIMINAL INJURIES COMPENSATION BOARD ACCOUNT OF RECEIPTS AND PAYMENTS IN THE YEAR ENDED MAR, 31, 1970

Itn nounds)

		Rece	ipts			Payme	nts
	1968-69	Estimate	Actual		1968-69	Estimate	Actual
Balance, Apr. 1, 1969. Grant-in-aid from the vote for Home Office (class III). Repayment of compensation recovered by victims from offenders Miscellaneous receipts.	33 . 1,870,000 164 437 .	2, 327, 000	19, 479 2, 220, 000 2, 436 24	Administrative expenses—Continued Office supplies, stationery, etc. Post office services Miscellaneous expenses: Miscellaneous expenses: Advertising and publicity Incidential expenses	1, 955 3, 833 18, 085 23 185	2, 400 3, 400 23, 700 100	3, 728 8, 173 19, 209 154
Total	1, 870, 634	2, 327, 300	2, 241, 939	Total		195, 650	205, 238
Administration expenses: Staff salaries, wages, national insurance and				Compensation paid 1	1, 672, 958	2, 130, 000	1, 992, 402
superannuation liability Board members' fees Traveling, etc., expenses of Board members	95, 712 25, 642	106, 400 29, 300	112, 136 29, 664	Travelling and subsistence expenses of appli- cants and witnesses	1,797 19,479	1,650	2, 448 41, 851
and staff Furniture and accommodation	4, 587 26, 378	4, 700 25, 550	4, 931 27, 151	Total	1, 870, 634	2, 327, 300	2, 241, 939

1 See report and appendixes for details

This account covers expenditure throughout Great Britain. A contribution of £465,470 to the Home Office Vote toward the Board's expenses in Scotish cases was made from the Scotish from any freship Department Vote Code Building of Acid Victims is shed in trust until they reach the sign of majority. At Mar. 31, 1970, the Board held £58,103 on deposit account pending the drawing up of deeds of trust etc. 23,305 was held in 756 ordinary accounts and £158,491 in 532 investment accounts in the Board's name at the Department for National Savings.

Chairman, Criminal Injuries Compensation Rose I have examined the above Account. I have obtained all the information and explanations that I have required, and I certify, as the result of my audit, that in my opinion the above Account is correct.

B. D. FRASER Comptroller and Auditor Gener

December 11, 1971 CONGRESSIONAL RECORD — SENATE

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APPENDIX A

APPLICATIONS RECEIVED AND RESOLVED, COMPENSATION PAID AND POSITION AT MAR, 31, 1970

	England	Scotland	Wales	Total		England	Scotland	Wales	Total
1. Applications received: (a) 1964 65 (8 months). (b) 1965-66. (c) 1965-68. (d) 1967-68. (e) 1968-69. (f) 1969-70.	477 1, 961 2, 546 3, 730 4, 658 5, 388	56 391 633 1,381 1,555 1,566	21 100 133 205 224 293	554 2, 452 3, 312 5, 316 6, 437 7, 247	Z. Application resolved—Continuned (c) Awards made: (b) 1964-65 (8 months) (i) 1964-65 (8 months) (ii) 1966-67 (4 months) (iv) 1967-68 (v) 1968-69 (v) 1969 70	100 962 1, 833 2, 580 3, 634 4, 247	11 153 472 769 1, 220 1, 155	49 141 206 212	114 1, 164 2, 404 3, 490 5, 060 5, 614
Total of 1	18, 760	5, 582	976	25, 318	Total of 2(c)	13, 356	3, 780	710	17, 846
2. Applications resolved: (a) Withdrawn/abandoned (i) 1964-65 (8 months) (ii) 1965-66 (iii) 1966-67 (iv) 1967-68 (iv) 1967-68 (iv) 1968-99 (iv) 1968-99	7 IR 44 37 56 104	1 2 8 8 12 13	1 1 3 5 7	8 21 53 48 73 124	3. Compensation paid (pounds); (a) 1964-65 (8 months). (b) 1955-66. (c) 1966-67. (d) 1967-68. (e) 1968-69. (f) 1969-70.	26, 670 304, 799 690, 013 987, 920 1, 198, 769	6, 138 87, 778 191, 338 250, 035 381, 611 386, 750	623 10, 141 32, 810 55, 817 92, 578	33, 431 402, 718 914, 161 1, 293, 772 1, 672, 958 1, 996, 584
Total of 2(a)	266	44	17	327	Total of 3	4, 732, 270	1, 303, 650	277, 704	6, 313, 624
(b) No award made: (i) 1864-65 (8 months) (ii) 1965-66 (iii) 1966-67 (iv) 1967-68 (v) 1968-69 (vi) 1969-70	7 156 189 219 524 707	1 25 64 100 302 338	9 7 12 26 34	190 260 331 852 1, 079	4. Position at 31.3.70: (a) Cases resolved. (b) Interim cases not finally assessed. (c) Hearing and referred cases pending/adjourned (d) Awaiting applicants' decisions. (e) Under investigation.	15, 424 416 189 494 2, 237	4, 654 96 79 126 627	815 24 15 21 101	20, 893 536 283 641 2, 965
Total of 2(b)	1, 802	830	88	2,720	Total (as total of 1)	18, 760	5, 582	976	25, 318

When the Board's books were closed for the financial year the value of uncleared payable orders was £4,182. This represents the difference between the figure shown above and the "Compensation paid" figure in the Board's accounts.

APPENDIX B

APPLICATIONS RESOLVED AND COMPENSATION PAID

			Apr. 1,	1968 to	Mar. 31	, 1969					Apr. 1,	1969 to	Mar. 31	, 1970				tals fo
	Engl	and	Scotland		Wai	Wales		Total		England		Scotland		Wales		Total		1964 t
	Num- ber	Per- cent	Num- ber	Per- cent	Num- ber	Per- cent	Num- ber	Per- cent	Num- ber	Per- cent	Num- ber	Per- cent	Num- ber	Per- cent	Num- ber	Per- cent	Num- ber	Per
. Applications withdrawn/abandoned	56	1	12		5		73	I	104	2	13		7		124	2	327	
Single member decisions accepted: (a) Full awards. (b) Reduced awards. (c) No awards (low limit). (d) No awards (others).	3, 321 139 104 326	56 2 2 5	1.120 45 48 157	19 1 1 1 2	187 10 7 14	3	4, 628 194 159 497	78 3 3 8	3, 791 200 135 402	56 3 2 6	1, 023 74 27 213	15 1 3	189 10 8 21	3	5, 003 284 170 636	74 4 2 9	16, 228 762 565 1, 515	7
Total of single member decisions accepted.	3, 890	65	1, 370	23	218	4	- 5, 478	92	4, 528	67	1, 337	19	228	3	6, 093	89	19, 070	9:
Decisions taken at hearings: (a) Fulf awards. (b) Reduced awards. (c) No awards (low limit). (d) No awards (others).	146 28 8 86	2 1	46 9 2 95	1	8 1		200 38 10 186	3 1	208 48 13 157	3 1	8 5 93	1 2	13		271 56 19 254	4 1 4	722 134 42 598	
Total of hearings decisions	268	4	152	3	14		434	7	426	6	156	3	18		600	9	1, 496	
impensation paid [2(a)(b) and 3(a)(b) above] (pounds). Add interim awards paid but final assessment not made at Mar. 31, 1970.		7, 383 1, 386		8, 728 2, 883		8, 344 4, 234		4, 455 8, 053		9, 104		5, 532 1, 218		0, 835 4, 900	-,	5, 471 I, 113		35, 988 71, 636
Total compensation paid (pounds)	1, 19	8, 769	38	1,611	9	2, 578	1, 67	2, 958	1, 52	4, 099	38	6, 750	8	5, 735	1, 99	6, 584	6, 3	13, 62

Note: (a) Where the percentage is much less than 1, no entry has been made. (b) Interim awards were made in 687 cases between 1.8.64 and 31.3.69. (c) Interim awards were made in 510 cases between 1.8.69 and 31.3.70. Total interim awards 1,197. At 31.3.70 there were 122 of these not finalized. At 31.3.70 there were 414 of these not finalized. Interim awards not yet finalized 536.

OUTCOME OF AWARDS AND DECISIONS MADE BY SINGLE MEMBERS

	A	pr. 1, 1968, to	Mar. 31, 1969		А	pr. 1, 1969, to	Mar. 31, 1970		Totals for period, Aug. 1, 1964
	England	Scotland	Wales	Total	England	Scotland	Wales	Total	to Mar. 31, 1970
Award made by single member, and: (a) Accepted by applicant. (b) Confirmed at a hearing. (c) Reduced at a hearing. (d) Changed to no award at a hearing. (c) Increased at a hearing.	3, 460 18 2	1, 165	197 1 1	4. 822 20 3	3, 991 21 3	1, 097	199	5, 287 24 3 2	16, 990 70 10 3
Total.	3, 530	1. 175	201	4, 906	4. 092	1. 114	203	5, 409	17, 314
Percentage of cases which went to a hearing Percentage of applicants successful at a hearing	2. 0 71. 4	90.0	2. 0 50. 0	1. 7 72. 6	2. 5 75. 2	1. 5 76. 5	2. 0 100. 0		1. 9 74. 4

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CONGRESSIONAL RECORD - SENATE

December 11, 1971

APPENDIX C-Continued

OUTCOME OF AWARDS AND DECISIONS MADE BY SINGLE MEMBERS-Continued

	Ар	r. 1, 1968, to M	ar. 31, 1969		,		Totals for period, Aug. 1, 1964		
_	England	Scotland	Wales	Total	England	Scotland	Wales	Total	to Mar. 31. 1970
Application rejected by single member on merits, and: (a) Accepted by applicant. (b) Confirmed at a hearing (c) Changed to an award at a hearing.	326 76 73	157 88 32	14 5 4	497 170 109	402 145 109	213 87 33	21 4 16	636 236 148	1, 515 552 353
Total	475	278	23	776	656	333	31	1,020	2, 420
Percentage of cases which went to a hearing. Percentage of applicants successful at a hearing	31. 4 49. 0	43. 5 26. 4	39. 1 44. 4	36. 0 39. 1	38. 7 42. 9	36. 0 27. 5	32. 3 60. 0	37. 6 38. 5	37. 4 39. 0
Application rejected by single member by reason of low limit, and: (a) Accepted by applicant (b) Confirmed at a hearing (c) Changed to an award at a hearing	104 Ж 11	48 2 6	7	159 10 17	135 13 19	27 5 .	8 1 2	170 19 22	565 42 73
Total	123	56	7	186	167	33	11	211	680
Percentage of cases which went to a hearing	15. 4 57. 9	14. 3 75. 0	Nil	14. 5 63. 0	19. 2 59. 4	18. 2 16. 7	27. 3 66. 7	19. 4 53. 7	16. 9 63. 5
Applications referred to a hearing by single members— resulted in: (a) Award being made. (b) No award being made.	20 10	7 6	1	28 16	28 11	8 5 .	1	37 16	109 43
Total	30	13	1	44	39	13	1	53	15

APPENDIX D

ANALYSIS OF NO AWARD CASES

		Apr. 1, 1	968, to Mar.	31, 1969			Apr. 1, 1		Total, Aug. 1, 1964			
		0		Tot		England	ad Castland	Wales	Total		to Mar. 31, 197	
Reason for application being disaffowed	(number)	Scotland (number)	(number)	Number		(number)			Number	Percent	Number	Perce
Eligibility not established on balance of probabilities.	205	123	10	338 35	40	289	125	14	428	40	1,001	
Injury sustained accidentally	205 26 112	50	7	169	20	148	32	9	189	17	607	
delay. Applicant a member of offender's family	61	71	2	134	16	87 16	89	4	180 25	17	385 61	
Injury caused by a motoring offense	8	6		14	2	13	. 4		17	3	62	
claim	1.6	32 5	6	124 19	14 2	124 21	* 74 2	4	202 23	19	421 71	
Total	524	302	26	852	100	707	338	34	1,079	100	2, 720	

APPENDIX E

ANALYSIS OF THE 20,893 CASES FULLY RESOLVED BETWEEN AUG. 1, 1964 AND MAR. 31, 1970

[Money in pounds]

[Money in pounds]											
	England		Scotland Wal		Wale	es		Total			
	Number	Average award	Number	Average award	Number	Average award	Number	Compen- sation	Average award	Percentag of total	
. Applications withdrawn/abandoned	266		44		17		327			1.	
Single members decisions accepted: (a) Full awards. (b) Full awards after interim(s). (c) Reduced awards. (d) Reduced awards. (e) No awards (low limit). (f) No awards (low limit).	11, 677 467 532 14 434 993	272 1, 374 314 1, 362	3, 358 73 181 4 108 471	297 1, 312 386 541	620 33 31 23 51	278 939 200	15, 655 573 744 18 565 1, 515	4, 347, 85 768, 376 243, 290 21, 230	278 1,341 327 1,179	74. 9 2. 3. 6 2. 7. 3	
Total of 2	14, 117	316	4, 195	323	758	306	19, 070	5, 380, 759	317	91.	
Results of hearings before three members: (a) Full awards. (b) Full awards after interim(s). (c) Reduced awards. (d) Reduced awards after interim(s). (e) No awards (by limit). (f) No awards (others).	445 47 89 4 30 -	675 1, 460 582 2, 371	109 6 23 11 224	507 983 432	20 - - - - -	441 6.545 500	574 56 113 4 42 555	356, 526 94, 142 62, 224 9, 485	621 1, 681 551 2, 371	2.	
Total of 3	933	722	373	515	38	1, 207	1, 344	522, 377	699	6.	
Results of cases referred to three members: (a) Full awards. (b) Reduced awards. (c) No awards (low limit)	1 68 1 13	2, 136 2, 263	3 22 4	1, 141 746	2	15, 065	92 17	200, 451 32, 411	2, 179 1, 906	:	
(d) No awards (others)	27		16				43				
Total of 4	108	2, 156	42	1, 080	2	15, 065	152	232, 852	2, 136	.:	
Il cases resolved 1.8.64 to 31.3.70	15, 424	345	4, 654	335	815	378	20, 893	6, 135, 988	344	100.	

Includes 6 full awards after interim.

Note: The compensation paid in the 536 interim awards cases not finalised is £177,636. The total compensation paid Aug. 1, 1964, to Mar. 31, 1970 is therefore £6,313,624.

Includes 3 reduced awards after interim.

APPENDIX F

CRIMINAL INJURIES COMPENSATION SCHEME

The Scheme for compensating viotims of crimes of violence was announced in both Houses of Parliament on 24th June 1964, and in its original form came into operation on 1st August 1964.

The Scheme has since been modified in a number of respects. The revised Scheme which came into operation on 21st May 1969, its rest out below the properties of the prop

Requests for application forms and all inquiries should be addressed to: The Criminal Injuries Compensation Board, Russell Square House, 10-12 Russell Square, London WCIB 5EN, Tel. 01-636 2812

THE SCHEME Administration

1. The Compensation Scheme will be administered by the Criminal Injuries Compensation Board, appointments to which will be made by the Home Secretary and the Secretary of State for Sootland, after consultation with the Lord Chancellor. The Chairman will be a person of wide legal experience, and the other members, of whom there are at presant eight, will also be legally qualified. The Board will be assisted by appropriate

staff.

2. The Board will be provided with money through a Grant-in-Aid out of which payments will be made to applicants for compensation where the Board are satisfied, in accordance with the principles set out below, that compensation is justified. Their net expenditure will fall on the Votes of the Home Office and the Scottish Home and Health

Department. The Board will be based on London but may establish offices outside London if the need arises. They will hold hearings in Lon-don, Edinburgh, Cardiff and elsewhere as

ssary. The Board will be entirely responsible for deciding what compensation should be paid in individual cases and their decisions paid in Individual cases and their decisions will not be subject to appeal or to Ministerial review. The general working of the Scheme will, however, be kept under review by the Government, and the Board will submit annually to the Home Schretary and the Secretary of State for Scotland a full report of the operation of the Scheme, together with their accounts. The report and accounts will be open to debate in Parliament. In addi-tion the Board may at any time publish such information about the Scheme and their decisions in individual cases as may assist intending applicants for compensation.

Scope of the scheme

The Board will entertain applications 5. The Board will entertain applications for ex grait payment of compensation in any case where the applicant or, in the case of an application by a spouse or dependant (see paragraph 12 below), the deceased, sustained in Great Britain, or on a Britain vestained in Great Britain, or on a Britain vestained in Great Parish (see paragraph 12 below). table to a crime of violence (including arson and poisoning) or to an arrest or attempted arrest of an arrest or attempted arrest of an offender or to the prevention or attempted prevention of an offence or to the giving of help to any constable who is engaged in arresting or attempting to arrest an offender or suspected tempting to arrest an owner or suspected offender or preventing or attempting to pre-vent an offence. In consideration for the pur-pose of this paragraph whether any act is a criminal act, any immunity at law of an offender, attributable to his youth or in-sanity or other condition, will be left out of account

Compensation will not be payable unless the Board is satisfied-

(a) that the injury was one for which com-pensation of not less than £50 would be awarded; and

that the circumstances of the injury have been the subject of criminal proc

ngs, or were reported to the police without

delay; and (c) that the applicant has given the Board all reasonable assistance, particularly in re-lation to any medical reports that they may require rovided that the Board at their discre

may waive the requirement in (b)

Where the victim who suffered injuries and the offender who inflicted them were living together at the time as members of the same family no compensation will be payable. For the purposes of this paragraph where a man and woman were living together as man and wife they will be treated as if they were married to one another.

Traffic offences will be excluded from Scheme, except where there has been a Scheme,

the Scheme, except where there has been a deliberate attempt to run the victim down.

9. The Board will scrutinise with particular care all applications in respect of sexual offences or other offences arising out of a saxual relationship, in order to determine whether there was any responsibility, either because of provocation or otherwise, on the part of the victim (see acceptable). part of the victim (see paragraph 17 below), and they will especially have regard to any delay that has occurred in submitting the application. The Board will consider applica-tions for compensation arising out of rape and sexual assaults, both in respect of pain, suffering and shock and in respect of loss of earning due to pregnancy resulting from rape and, where the victim is ineligible for a maternity grant under the National Health Scheme, in respect of the expenses of child-birth. Compensation will not be payable for the maintenance of any child born as a re-sult of a sexual offence.

Basis of compensation

10. Subject to what is said in the follow-Subject to what is said in the ionow-paragraphs, compensation will be as-d on the basis of common law damages will take the form of a lump sum pay-t, rather than a periodical pension. More ing paragraphs, compensation will ment, rather than a periodical pension. More than one payment may, however, sometimes be made—for example, where only a provisional medical assessment can be given in the first instance.

11. Where the victim is alive the amount compensation will be limited as follows-(a) the rate of loss of earnings (and, where appropriate, of earning capacity) to be taken into account will not exceed twice the average of industrial earnings (average weekly earnings for men (21 years and over) as published in the Employment and Productivity Gazette) at the time that the injury was sustained;

(b) there will be no element comparable

to exemplary or punitive damages.

12. Where the victim has died in consequence of the injury no compensation will be payable for the benefit of his estate, but the Board will be able to entertain claims from his spouse and dependents. For this purpose, compensation will be payable to any person entitled to claim under the Fatal Accidents Acts 1846 to 1959 or, in Scotland, under the appropriate Scottish law. Subject to what is appropriate Scottish law, Subject to wnatus said in the following paragraphs the amount of compensation will be governed by the same principles as under those provisions; the total income of the decessed, earned and unearned, to be taken into account being subset, of the limit smedified in paragraph 11(a) ject to the limit specified in paragraph 11(a) above. Where the victim's funeral expenses are paid by any person for whose benefit an action may be brought under the Fatal Acaction may be brought under the Fatal Ac-cidents Acts or the appropriate Scottish law, whether or not there is any financial depend-ency, the Board may pay that person a rea-sonable sum in respect of funeral expenses less any death grant payable under the Na-tional Insurance Scheme. For this purpose paragraph 6 (6) above shall not apply. 13. Where the victim has died otherwise than in consciunce of the injury the Board

than in consequence of the injury, the Board may make an award in respect of loss of

vages, expenses and liabilities incurred bewages, expenses and mannites incurred be-fore death as a result of the injury where, in their opinion, hardship to dependents would otherwise result, whether or not application for compensation in respect of the injury has been made before the death.

14. Compensation will be reduced by the value of any entitlement to social security benefits payable by the Department of Health and Social Security (and of payments made under Treasury authority by analogy with the National Insurance (Industrial Injuries Act) which accrues as a result of the injury of death to the beneft of the person to whom the award is made.

15. If in the opinion of the Board an ap-icant may be eligible for any social security benefits or payments mentioned in para-graph 14 the Board may refuse to make an award until the applicant has taken such steps as the Board consider rea claim these benefits or payments.

3. Where the victim is alive the Board determine on the basis of the common 16. law whether, and to what extent, compensa-tion should be reduced by any pension ac-cruing as a result of the injury. Where the victim has died in consequence of the in-jury, and any pension is payable for the benefit of the person to whom the award is made as a result of the death of the victim which would not have been payable, or would not have been so large, if his injury had not been nave been so large. If his injury had not been sustained while on duty or in the perform-ance of a duty connected with his employ-ment, the compensation will be reduced by four-fifths of the value of that pension, or as the case may be, by four-fifths of the injuries hav-ing been austained the to the injuries hav-ting been austained to the purpose of the pur-boges of this haraseranh "hereston" to the purlng been sustained in that way, it was a posses of this paragraph, "pension" means any pension payable in pursuance of pension rights connected with the victim's employ-

rights connected with the victim's employ-ment, and includes any gratuity of that kind. 17. The Board will reduce the amount of compensation or reject the application al-together if, having regard to the conduct of the victim, including his conduct before and after the events giving rise to the claim, and to his character and way of life it is inappropriste that he should be granted a full award or any award at all.

18. The Board will have discretion to make

ecial arrangements for the administration of any money awarded as compensation

Procedure for determining applications

19. Every application will be made to the Board in writing as soon as possible after the event on a form obtainable from the Board's office.

20. Applications will be sifted initially by the Board's staff, who will seek further in-formation as to the relevant circumstances and, where necessary, medical advice

21. The initial decision whether the appli-cation should be allowed (and, if so, what amount of compensation should be offered) or should be rejected will normally be taken by one member of the Board, whose decision will be communicated to the applicant; if the applicant is not satisfied with that dethe applicant is not satisfied with that de-cision, whether because no compensation is offered or because he considers the amount offered to be inadequate, he will be entitled to a hearing before three other members of the Board, excluding the one who made the initial decision, it will, however, also be open to the single member, where he considers that he cannot reach a just and proper de-cision, himself to refer the application to three other members of the Board for a hearing. hearing

22. At the hearing, it will be for the applicant to make out his case; he and a member of the Board's staff will be able to call, examine and cross-examine witnesses. The Board will reach their decision solely in the Hight of the evidence brought out at the hearing, and all the information before them will be available to the applicant. While it will be open to the applicant to bring a friend or legal adviser to assist him in put-ting his case, the Board will not pay the costs of legal representation. They will, however, have discretion to pay the expenses of

23. Procedure at a hearing will be as in-formal as is consistent with a proper deter-mination of the application, and the hearing

will be in private.

24. It is not intended that a person who 24. It is not intended that a person who has pursued a claim for damages for personal injuries should obtain compensation from the Board in respect of those injuries in addition to obtaining satisfaction from that claim; and compensation will be reduced by any sum which the victim has received in pursuance of an order for compensation by a criminal court in respect of his injuries. Furthermore, a person who is compensated by the Board will be required to undertake to repay them from any damages, settlement or compensation he may subsequently obtain in respect of his injuries. quently obtain in respect of his injuries

STATE OF NEW YORK-1970: FOURTH ANNUAL REPORT OF THE CRIME VICTIMS COMPENSATION BOARD

NELSON A. ROCKFELLER,

Legislature of the State of New York.

I have the honor to submit the Fourth
Annual Report of the Crime Victims Compensation Board for the year 1970 rendered pursuant to the provisions of Article 22, Section 623 of the Executive Law.

Respectfully,
STANLEY L. VAN RENSSELAER

ALBANY, April 1, 1971.

SRS: We have the honor to submit this our fourth annual report.

 The claims have increased each year since the inception of the Board. This year there was a total of 1594 claims received and filed. The previous years from 1967 with 196, 1968 with 519 and 1969 with 929 claims graph. ically shows the enormous increase in

present year.

It it the intention of the report to not only set forth the number of claims, but also the disposition with the decisions, amended decisions and full Board reviews. In addition, there are many claimants who have been given the right to reopen their claim under certain conditions set forth in the decision.

We shall also show the comparison of the We shall also show the comparison of the number of open claims under investigation at the end of this year, with the protracted and death claims as compared with the previous year. There will also be discussed the additional investigations necessary before amended decisions are made and periodic relivestigations on both the protracted and relivestigations on both the protracted and death claims. In many instances additional investigation becomes necessary following a

Investigation occurred.

2. Workload: Since this Board was created on March 1, 1967, this report will cover the activities for the year March 1, 1970 through February 28, 1971.

Actually the number of claims received and filed at the Albany office does not fully reflect the workload. There are hundreds of inquiries by telephone, by letter and by perinquiries by telephone, by letter and by personal appearance at either the New York or Albany office. The increase in the workload and the lack of staff does not permit a record of each inquiry requesting information. It has been the policy of the Board to ascertain whether the claimant is eligible, if unreimbursed medical expenses amount to \$100 after taking into consideration insurance benefits, whether he has lost two weeks continuous loss of earnings, his relationship, if any, to the assailant and his financial resources. It is felt that although it requires considerable more time to screen these inquiries that there is much time saved rather than to simply send a claim form.

In addition, and perhaps equally important following this procedure is the fact that a claim is not accepted for filing when it is clear that the claimant would not be eligible. This obviates disappointment if his claim would be disallowed for any one of the above

Many claimants feel all that is needed is advise the Board that they are the victim a crime and request a certain number of dollars covering their personal property, cash

dollars covering their personal property, seen lost and even damage to their real estate. There is set forth a listing by month for the past two years and the present year a schedule which reflects the increase in the number of claims

28, 1971 110 119	Feb. 28, 1970	Feb. 28, 1969
		27
119		27
	67	24
	54	45
	169	36
	52	33
116	92	53
153	78	
	82	47
		39 47 37 52
		52
		61
		65
133	101	03
1, 594	929	519
	117 115 116 153 161 157 149 169 133	117 54 115 189 185 52 116 92 153 78 161 82 157 67 149 73 169 139 133 101

It is interesting to note that less than 20% of the claims filed were by attorneys acting for the claimant. The majority of the attorneys appearing are in death claims.

As can be expected the greater majority of the claims filed are from the New York City Metropolitan area. Approximately one-third are upstate claims and two-thirds are from New York City area.

from New York City area.

The publicity having been given to this Board has been much greater in the city than upstate and this would appear to be one of the reasons for the disparity.

3. Open Claims: There were 771 claims under investigation as of Pebruary 28, 1971, as compared with only 278 on Pebruary 28, 1970. This large backlog is due partially to the fact that we do not have sufficient personnel in the New York City office. At the present time there are two Grade 17 senior investigators and five Grade 13 investigators. Due to the number of claims under investi-Due to the number of claims under investi-gation in the New York City office the Board felt that it was necessary to assign one of the senior investigators as an acting super-visor and the other senior investigator to aid him and investigate the more difficult and involved claims.

This leaves five Grade 13 investigators and This leaves nive Grade 13 investigators and each is presently assigned in excess of 100 claims. There are still open claims that have not been assigned as it is unrealistic to expect any investigator to handle that number. The experience of the Board has shown that 40 to 45 is the maximum number any one investigator should be assigned. With a normal work month having 22 days, it cannot be expected that an investigator, except under unusual circumstances, can complete the investigation of more than 12 to 15 claims.

It must also be recognized that since no award can be made unless there is a finding of serious financial hardship it is the responstibility of the Board to complete its investigation as promptly as possible. Certainly any claimant entitled to an award needs the money within a reasonable time and not a year later. The Board has received many teleyear later. He Boatt has reterred many color-phone calls and letters, as well as letters to the Governor, inquiring why, after having filed a claim several months previously, they have not received an award.

The Albany office which covers all of the state except the metropolitan area presently has one senior investigator and two Grade 13 investigators. To date these investigators

ave been able to handle the claims even through a substantial number of their work days are consumed in travelling. It is hoped that the present staff will be able to continue

that the present stan will be able to continue to keep abreast.

4. Types of Crime: Approximately 80% of the personal injuries claims are assaults, ex-cluding stabbing, and/or robberies; 12% are death claims; another 12% were knife wounds; another 12% bullet wounds and the miscellaneous, such as, rape and motor

vehicle violations of law.

5. Investigations: The investigation quired on claims is carefully determined be-ginning with the receipt of the claim in the Albany office. Each claim form before it is entered in the log book is examined to deter-mine if, there is an eligible claimant, whether a crime has been committed, personal physi-cal injuries sustained, whether it was re-ported to the police authorities and whether there is at least \$100 unrelimbured medical expenses and/or two weeks continuous loss

of earnings.

Where a claim form does not show the minimum requirements it is returned with an explanation advising the claimant, how-ever, that if he does have unreimbursed medcal of at least \$100 or two weeks loss of earnings that the same should be stated in the claim form and returned.

Each claim is carefully examined to determine not only the above, but if the person filing the claim is one eligible under the statute to receive an award.

If it appears that the claim meets the statutory requirements, it is then assigned to an interpretable to interpretable to an interpretable to the first instance. Each claim must be so analyzed and each investigator has been instructed that until those essential efements of the statute are satisfied no further investigation should be conducted. As an examine, it can be seen many times from an examination of the claim that the occupation as listed might very well not be a person who would suffer serious financial hardship. Accordingly, if the financial resources are immediately ascertained from the claimare immediately ascertained from the claim-ant and it can be determined that there will not be serious financial hardship there is no need to continue the investgiation

As above stated, if a claimant is entitled As above stated, if a claimant is entitled to any award then every effort should be made to bring the investigation to comple-tion so that a decision may be rendered. The reason being that after the decision is made, the claimant has 30 days in which to ad-vise whether he accepts or rejects the decivise whether he accepts or rejects the decision requesting a hearing before the full Board. If he accepts then the decision must go to the Attorney General and Comptroller who have 30 days n which to approve or reject the decision. We have requested the legislature to reduce to 16 days this period. Following that a warrant must be prepared for the Comptroller and it is another two or three weeks before the checks are issued.

Of course, no investigation can proceed un-l after the district attorney advises that he approves of the investigation or fails to answer within 10 days. Accordingly, during this period only the acknowledgement letter to the claimant requesting whatever information is desired of him and a letter is sent to the doctor, hospital and employer.

the doctor, hospital and employer.

Personal interview with the claimant in
the initial stage has been found to be very
productive. All investigators have been requested to contact and arrange for an interview with the claimant before undertaking a
full investigation. It should also be noted
that each claimant is advised that this Board
is not his adversary. He is advised that this
Board is interested in obtaining all of the
facts whether it be in his favor or not. Every expense as well as the loss of earnings

is verified. The claimant is also advised that his cooperation in furnishing information requested as soon as possible will be to his advantage. However, there are many claimants who for unknown reasons refuse to comply with the requests and since no decision can be made without the information there are detailed to the comparation of the complete sion can be made without the information they are given a second chance to furnish the same. The second letter advises the claimant that unless he does furnish this information there can be no award grant-

information there can be no sward grant-ing him any benefits.

The most extensive investigations are those where there is a question of provoca-tion. The police departments and the dis-trict attorneys' offices have been cooperative in all investigations but have been most helpful in this type. There are many times when the investigator in the field is unable to find any witnesses and the police and the district attorneys have allowed this Board to examine their files and even furnish cop-ies of statements and/or depositions taken from witnesses that were interviewed imme-diately following the incident.

diately following the incident.
There are delays that are unavoidable in a number of instances. Whenever a claimant was injured while at his place of employment no final determination can be made until after the Workmen's Compensation Board makes a ruling. In death claims there can be no award made until after the Social Security benefits are determined. This is also true in the protracted disability claims.

Perhaps one of the greatest delays occurs where Blue Cross and/or Blue Shield or other insurance companies have not determined the amount payable by them. Some hospitals only submit their bills to Blue

rose on a quarterly basis.

The Board has found that letters with appropriate forms requesting information brings results within a reasonable time in most osses

The Board Members have made decisions where loss of earnings were known but the medical expenses had not been determined. The decision allows the medical bills to be submitted later. Thus, claimants receive an award for loss of earnings without waiting several months.

Several months.

The Board feels that this has been most helpful to the claimant or in the death claim to the survivors, since they are the ones who are presently in need of funds.

6. Disposition of claims: There were 1090 decisions by the Board Members in which claimants received awards and

458 claimants received awards and 632 claimants received no awards.

The provisions of the stabute accounted for the disallowance in many cases. There were 161 in which the claimant did not meet the minimum requirements. Another 177 failed to furnish the information requested. It has been and will continue to be the policy of this Board to piace the responsibility upon the claimant to furnish information over which he has control or has in his possession. It has been found that many claimants refuse to divulge their financial resources claiming that it is an invasion of their rights.

The most difficult problem still continues

vasion of their rights.

The most difficult problem still continues
to be determining the question of serious
insancial hardship. Many of the elderly people who are retirred, who have worked many
years, have been frugal and have saved
money to take oare of them in their declining years represents one group that the Board feels should be reimbursed for their medical expenses. However, the statute makes no distinction and, therefore, with substantial savings the statute does not per-mit an award to these elderly persons.

Another segment of our society is the mid-dle income man who has supported his familly, has been gainfully employed and is not only a respectable but responsible citizen. This claimant fees that having been a law-abiding citizen who has worked hard and paid his taxes he is entitled to receive his unreimbursed medical expenses and his loss of earnings within the limitatons allowed by the statute. The Board continues to feel that these two classes of individuals should be compensated.

The Board members have discussed this matter of serious financial hardship to try to determine, within the framework of the statute, justification to make awards. However, the Board recognizes the mandate in the statute and considers each claim on its cu merits to attempt to see that those people, particularly these two classes, are given every consideration. There is set forth a schedule showing the reasons for the disallowance of

CIBLITIE:	
Withdrawn	61
Member of family	6
Provocation	4
No principal support	15
No minimum requirements	161
No serious financial hardship	93
No crime	19
No police report	28
Workmen's compensation pending	19
Claimant ineligible	10
Failed furnish information	177
Over 1 year	14
Duplicate claim	2
claimant deceased	7
Death not due to crime	2
Civil Action pending	4
No physical injury	2
Crime undetermined	1
Good Samaritan 1	1
Unable to locate claimant	3
Police report delay unjustified	1
New claim filed	1
Medical proof to be submitted if related	
to crime	1
Total	632

1 Claimant filed under New York City Good Samaritan Law

The personal injury claims represent 80 and protracted 10% of the total claims and the balance, or 10%, were death claims.

the belance, or 10%, were death claims and the belance, or 10%, were death claims. The average personal injuries or lump sum claim has increased over the preceding year and this year is \$1930.00. The average death award which is payable over a 12 month period was less than the previous year and this year was \$2004.00. The protracted awards were down over the previous year and this year the average award payable over a 12 month period was \$4860.00. This does not take into account the increase in medical expenses which is substantial. It was necessary prior to the end of this year to request \$100.000 in the deficiency budget, all of which was used in the payment of awards. The hospital and medical expenses are incurred following the original decision and in most in editations in medical expenses are incurred following the original decision and in most in stances is provided for in the original decision. It is anticipated that during the coming year the average for each type of claim will increase. This is due to new labor con-tracts increasing wages, as well as the in-creased cost of medical care. The Board in following the statute reduces

the award by any sum received by the claim-ant from any source. There were claimants and attorneys who objected strenuously when Blue Shield or other insurance monies for which they had paid the premium were deducted. The Board determined that since there was only the balance left for the claimant to pay only that amount could be al-lowed Accordingly, the Board asked the legis-lature to amend the statute so that any amount received under any contract of insur-ance where the claimant is the insured or beneficiary can be deducted. This is now spe-cifically set forth in the statute.

In determining the loss of earnings and/or support the Board has continued to make awards only for the net earnings or take-home pay of the claimant or in the case of death to his survivors.

In the death case the loss of support is ar-In the death case the loss of support is ar-rived at by deducting the deceased's personal expenses as well as Social Security benefits, Workmen's Compensation or pensions. This is in accordance with the statute which man-

in accordance with the statute which man-dates that only the actual loss of earnings or actual loss of support may be granted.

7. Death and Protracted Claims: The Board has followed the statute in providing for monthly payments in both the death and pro-

tracted claims.

The protracted claims have continued to Increase as well as the death claims as will b seen from the schedule set out below. This requires additional periodic investiga-tion to determine whether the claimant i

still disabled as a direct result of the injuries he received in the incident. The claimant is contacted and a doctor's report is obtained. contacted and a doctor's report is obtained. In many instances the Board's doctor examines the claimant to verify his disability. There is also a check as to whether he is gainfully employed or has returned to his former position. Unless the investigation reflects this inability to work due to his injuries the payments are stopped.

The death claims require reinvestigation to determine if the dependency is the same as when the decision was made.

The tests claims require visuarces gesting to determine if the dependency is the same as when the decision was made.

With the increase over the previous year and the expected increase during the comand the expected increase during the comand the expected increase during the company of the property of the previous that any and all efforts to make a correct determination is money well spent. It has been found that alchough a person has returned to work he has failed to notify the turned to work he has failed to notify the turned to work he has failed to notify the dury and responsibility to do so. It must be duty and responsibility to do so. It must be east, however, that the great majority of the sammants are homest and advise the Board properly. The following schedule Board properly. The following schedule Board properly in the following schedule Board properties are the workers that the work of the following schedule Board properties are the same and the work of the following schedule Board properties the same and the work of the following schedule Board properties are the work of the following schedule Board properties are the work of the following schedule Board properties are the work of the following schedule Board properties are the work of the following schedule Board properties are the work of the following schedule Board properties are the following schedule Board properties are the same and the following schedule Board properties are the same and the s

	Feb. 28, 1969	Feb. 28, 1970	Feb. 28, 1971
Death Protracted	22 28	56 63	100 112
Total	50	119	212

We shall continue to provide for monthly we shall continue to provide for monthly payments in these two types of claims since this procedure not only follows the statute but is also in the best interest of both the state and the claimants and/or survivors.

state and the claimants and/or survivors.

8. Amended Decisions: Reasons have been afforded in which original decisions were amended to make provision for both additional medical expenses and loss of earnings. Although the Board Members, wherever there is probable reason to believe there will be further medical expenses, have provided for the same in the original decision there are many times when this cannot be done. Accordingly, it has been necessary in 5c claims cordingly, it has been necessary in 59 claims to prepare and make amended decisions fol-lowing the reinvestigation to verify the medical expenses and/or loss of earnings.

There were 5 claims where amended decisions were made following investigations in sions were made lonowing investigations in which no award or further allowance was made. In each of the other 54 claims there were additional monies awarded.

9. Right to Reopen: There are several re sons in which claimants are given the right to reopen their claim at some future date.

Generally this occurs where in the death claims at the time of the original decision there could not be a finding of serious finanthere could not be a finding of serious finan-cial hardship. It has been the Board's policy to allow a claimant to apply to reopen where it can be resconably anticipated that the as-sets at the time the original decision was made would not be sufficient for the sup-port for the normal life expectancy. This policy was developed during the pre-

vious year.

It should be noted, however, that when the

right to reopen is given to the claimant, the Board requires that the assets available at the time the decision was made have been used for the care, maintenance and/or support and education of any children and have not been wasted or dissipated. Proof is also port and education of any children and have not been wasted or dissipated. Proof is also required as to what, if any, assets the claim-ant has received from the date of the deci-sion up to and including the time when the request for reopening is granted.

During this year this right has been granted to 61 claimants.

10. Full Board Reviews: There were 17 days in which full Board reviews were held and a tal of 88 claims was heard. There were 47 decisions that were affirmed

15 in which there was a reversal of the origi-nal decision and an award made and 18 were

reopened for investigation.

reopened for investigation.

There are many requests for full Board reviews made but were not granted immediately for the reason that certain information had not been furnished prior to the decision. Claimants were, therefore, advised that if they care to submit this information which had not been furnished that an investigation would be directed to verify the same. Wherever this has been possible an amended decision has been written incorpoamended decision has been written incorpo-rating the additional information and in-vestigation. In many of these instances the amended decision even though no award was made has satisfied the claimant.

12. Rules: There has been no amendment to the rules since the last annual report.

The policy set forth in the last annual

report has been followed

The Board has continued to study and The Board has continued to study and discuss the problems that are presented with the statutory provision of serious financial hardship. As has been set forth hereinbefore the elderly and the middle income groups are the ones that appear to be adversely affected under this provision of the statute.

13. Forms and procedures: The Board in concert with the staff has continued to review our investigative procedures in an attempt to streamlite them.

tempt to streamline them.

As has been set forth before in this report, we have attempted to screen out those claimants who do not meet the minimum eligibility of the statute. This we will continue to do for the reasons stated in the discussion under Investigations.

We shall continue the policy of holding the

We shall continue the policy of holding the claimant responsible for furnishing that information which he has. We shall also continue to make payment for unreimbursed medical expenses directly to the creditors.

14. Crime Victims Compensation Board. The awards which are made by the Board to innocent victims of crime provide the victim with his loss of earnings in order that he may maintain himself and his family as well as to assume payment for the unreimwell as to assume payment for the unreim-bursed medical expenses.

In addition to the declaration of policy and legislative intent, there are other compelling reasons for this program.

Social welfare justification to compensate Social weitare justification to compensate innocent victims of crime is the straightforward approach. The state has recognized its responsibility to the disabled veteran, the sick, the unemployed and the aged. Thus, it follows logically that the state should recognize the state should recognize the state of the state should recognize the state of the state should recognize the state should recognize the state of the state should recognize the state of the nize a responsibility to those victims of crime who have suffered personal physical injuries through no fault of their own.

Attention is again called to the declaration of policy and legislative intent which states that aid, care and support be provided by the state as a matter of grace. This declaration takes into consideration not a class but rather individuals. The state recognizes that it is the individual who is important. This has been demonstrated by many claimants who have written the Board as well as the Governor

One letter from a claimant in commending the Board for its prompt, equitable and understanding treatment adds that "pro-grams such as this helps to restore one's grams such as this h

Another one wrote stating, "It is indeed gratifying to find that someone does care".

A crime compensation plan aids in better-ing the statistics of crimes reported. Our statute provides that no award may be made unless the crime is reported to the proper authorities within 48 hours. This may be waived upon a showing of good cause. It is accepted that there are many crimes that are not reported to the police. Since this statute directs the reporting of a crime it should lead to better law enforcement.

Crime compensation programs also aid in the prosecution of criminals. When a victim is fairly treated by society he certainly is more willing to cooperate with the law enforcement

Each year the Board becomes more aw of the general public not only accepting the program of aiding innocent victims of crime, but appear to wish the same to be broadened Gallup poll taken on this matter several ears ago shows that 62% favored such a vears ago years ago snows that oam lavores such a program. Perhaps the increasing attention to the rights and privileges of the accused has brought to the public the stark contrast between the criminal and the plight of the victim

The legislative intent to keep people off the welfare roll has been demonstrated and brought to the Board's attention on more than one occasion. Letters from claimants stating that were it not for the benefits stating that were it not for the benefits available they would have had no other recourse than to have applied for welfare. Certainly recognizing the dignity of the individual is reason enough to continue and

to increase the benefits of this program.

Although there is a small percentage of ctaims filed by attorneys, we have found that they are not only cooperative but apprecia-tive. Attorneys on many occasions express their appreciation for prompt and fair con-sideration given the claimant.

sideration given the claimant.
The variety of telephone calls and letters received by this Board cover every variety of request. Many are interested in whether shey can recover for the loss of their property and others who were hit and run victims. One telephone call, however, stands our above them all. The New York City once received a telephone call from a woman ask-ing for help as she had no one to turn to having been recently robbed and was without food, money or friends. She then stated that she had no other alternative than to take her life. The investigator who was taking the call, after talking with her at great length, discussing her religious beliefs, was able to calm her to a degree that she felt

much better and said she would not take her much better and said she would not take her life. Shortly thereafter she called again stat-ing that she had now definitely decided to take her life. While he kept her talking he obtained her name and address and had an-other investigator in the office alert the police who responded immediately, where-upon she asked to be excused as someone was knocking at her door. The next voice he heard was that of the patrolman. Thus, it can be seen that the Board and the staff it can be seen that the Board and the staff are called upon in many and certainly some-

times unique situations.

There are several other states which are proposing a crime victims program and it expected that there will be several adopted. There are several provinces of Canada that have a statute, most of them similar to the English scheme. The Dominion of Canada is also making a study looking toward a uni-form statute for the Dominion.

There is also a committee of the American

Bar Association studying all of the states programs in an attempt to develop a uni-

form statute

Although there have been a number of bills submitted to the Congress none has become a reality as yet.

More and more articles are written by law professors, law school students and philos-ophers which has generated further interest by other states.

The Chairman and Executive Secretary at-nded a conference in Maryland in the The Unairman and Executive Secretary at-tended a conference in Maryland in the spring of 1970 at which there was represented most of the states who have statutes as well as the provinces and the Dominion of Canada. There was an exchange not only of informa-tion, but of the problems that are common to all of the states and a great deal was obtained of value. It was the consensus of the Second International Conference, hosted by the Maryland Criminal Injuries Compens tion Board, that an association be formed Attending the conference were individuals who have written treatises which have been

who have written treatises which have been published in various law school reviews.

The purposes of the association included the exchange of information and a discussion of problems that are common and to furnish to those states which are studying such a program statistics and costs.

15. Board and Staff: The district attorneys and all law enforcement agencies have continued their full cooperation with this Board.

The staff as well as the Members of the Board and the Executive Secretary have had added duties assigned due to the steady increase in the number of claims. Without the cooperation of each one, this Board could not have processed as many claims.

The Board, with the cooperation of the staff, will continue to investigate and render decisions in as many claims as can be pos-

sibly done with our present personnel.

The Board recognizes its duties and responsibilities to innocent victims of crime.

STANLEY L. VAN RENSSELAER, Chairman

CLAIRE E. CANNING, Max L. NISSMAN,
Board Member.

P. VINCENT LANDI, Board Member. ALBANY, N.Y., April 1, 1970.

EXHIBIT

	State	Jurisdiction	Eligibility	Restrictions	Amount	Subrogation	Attorney fees	Loss of property	Determination
(1	iornia: Cal, Gov't ide. §§ 13960-13966 967) §§ 13970- 974 (1969).	State Board of Control (hearing)	Victim. Dependants—in case of pecuniary loss from his injury or death.	Need basis	Not in excess of \$5,000.	State subrogated to rights of claimant against offender to the extent of payment of the claim. May intervene in claimant's action against offender or bring own.	Not in excess of 10%	To private citizen pre- venting crime or appre- hending crim- inal, or rescuing a person.	May refuse to com- pensate for lack of cooperation with police in apprehen- sion of offender.

December 11, 1971

CONGRESSIONAL RECORD - SENATE

S 21347

State	Jurisdiction	Eligibility	Restrictions	Amount	Subrogation	Attorney fees	Loss of property	Determination
Hawaii: Hawaii Rev. Law §§ 351-1, -351-70 (1967).	Criminal In- juries Com- pensation Commission (hearing)	Victum. Dependants—in case of his death. Other—person responsible for victim's maintenance, where pecuniary loss results from victim's injury.	General	Not in excess of \$10,000.	State may bring derivative action against the convicted offender in the name of the victim or dependants awarded compensation, Excess recovery given to claimant.	Commission as part of order-may award reasonable attorney fees, not in excess of 15% of an award over \$1.000—out of the award.	To private citizen in preventing crime or apprehending a criminal.	Reduce compensation to extent victim was responsible for the crime that caused his injury.
Maryland: Md. Ann. Stat. art 26A, §§ 1–17 (1968).	Criminal Injuries Compensation Board (single member with right to appeal to whole).	Victim. Dependants—in case of his death. Other—dependant on victim for their principal support. Anyone injured or killed in attempting to prevent a crime, and his	Out-of-pocket loss of \$100 or two weeks' earnings plus "serious financial hardship."	Art. 101, § 36 schedule used.		Subrogated to the extent of the award to recover payments resulting from the crime.		Reduce compensation to extent victim contributed to his injury. May be disregarded if victim attempted to aid a victim or prevent crime or apprehend a person after he committed a crime.
Massachusetts: Mass. Gen. Laws ch. 258A, §§ 1-7 (1968).	District Court.	Dependants—in case of his death.	Out-of-pocket loss of \$100 or two weeks' earnings.			compensation," any amount received by claimant from any source exceeding the actual loss to the victim may be recovered.	Court as part of order may award reasonable attorney lees, not in excess of 15% of an award over \$1,000—out of the award,	Same.
New York: N.Y. Exec. Law §6 620-635 (1966).	Crime Victims Compensation Board (single member with right to appeal to whole).	Victim. Dependant—in case of his death. Wher—dependent on victim for their principal support. Anyone injured or killed in attempting to prevent a crime, and his dependants.	Out-of-pocket loss of \$100 or two weeks' earnings plus "serious financial hardship."	Not in excess of \$100 per week earnings or support, nor an aggregate award of more than \$15,000.		To the extent of the award to recover payments resulting from the crime.		Same.
levada: Nev. Rev. Stat. §§ 217.180-217, 260 (1969).	State Board of Examiners (hearing).	Victum: Dependant—in case of his death, Other—person responsible for victim's maintenance where pecuniary loss results from victim's injury.	General	Not in excess of \$5,000.	Subrogated to the cause of action of the applicant against the offender and may bring an action for the amount of damages sustained by the applicant. Excess recovery paid to claimant.	Board as a part of order may allow reasonable attorney fees, not to exceed 10%—out of the award.		In determining whethe to make an order for compensation, the board shalt consider provocation, consent, or any other behavior of the victim.
lew Jorsey: N.J. Session Law Oct. 1971.	Violent Crimes Compensa- tion Board (hearing).	Victim. Dependent—in case of death. Other—person responsible for victim's maintenance where pecuniary loss results from victim's injury.	Out of pocket loss of \$100 or two weeks earnings,	Not in excess of \$10,000.	cultural to the cause of action of the applicant against the offender and may bring an action for the amount of damages sustained by applicant. Excess recovery paid to claimant.	Board as part of order may allow reasonable attorney fees, not to exceed 15%, of the award—not out of award.		Reduce compensa- tion to extent victim contributed to his injury. May be disregarded if victim attempted to aid a victim or prevent a crime or apprehend a person after he committed a crime.
Setims of crime act of 1972 (Title I).	Violent Crimes Compensa- tion Board (hearing).	Victim. Dependent—in case of his death. Other—person where pecuniary loss results from victim's injury. Anyone suffering pecuniary loss.	\$100 minimum plus undue financial hardship.	Not in excess of \$50,000.	Attorney General may maintain action against offender for recovery of the whole or specified amounts of the compensation.	Attorney fees allowable as under 18 U.S.C. 3006A.		In determining whether to make an order, the behavior of the victim is considered.

Note: Adapted from 47 Notre Dame Law 88 (1971).

MULTNOMAH COUNTY, OREG

December 1, 1971. Senate Judiciary Committee, Washington, D.C.

GENTLEMENT: I am forwarding to you the copy of a newspaper story relating to the tragic death of a police officer who was engaged in his official duty attempting to avert a bank holdup

Apparently, the city he was working for did not have the fringe benefit of life insurance provided for their police officers; and because of the outrageously low salary, the officer was unable to pay for his own policy.

It is my understanding that there is cur-rently pending legislation that would pro-vide death benefits in such cases as this, As a former sherilf and as one who re-tains a keen interest in the criminal justice system. I strongly urge that such leigslation receive prompt and favorable consideration.

Thank you for allowing me to call this to your attention. very truly yours,

Donald E. Clark,

Commissic

Commissioner.

[From the Oregon Journal, Nov. 10, 1971] CRESWELL MOURNS SLAIN POLICEMAN WITH SOLEMN RITES-MURDERER MAY HAVE MIS-TAKEN VICTIM

(By James Long)

CRESWELL.—Of y Belies Long.

CRESWELL.—Oity Policeman Curtis VanDerson may have been murdered by bank
robbers Friday night because of a grotesque
case of double mistaken identity.

This possibility became clear Tuesday as a
team of Journal newsmen visited Creswell,
a quiet, friendly lumbering town, and talked
to witnesses.

The story is complex and requires an understanding of the setting.

As you drive south on Interstate 5 out of

As you drive south on Interstate 5 out of Eugene, Creswell pops up on the right. It is a small community with a population of 1,200, and most of the social activities center on the churches and VFW hall.

Nearby, in the hills, are some "hippie" communes with many bearded types—and these are not looked on with much favor by the townspeople. One man, looking with disdain at a wild-haired youth departing. The Penguin restaurant, murmured, "I'd like to catch that guy out in the brush. I'd hogtle him and—"He bit off the sentence.

The Penguin is the older part of Creswell, which grew up around the Southern Pacific Railroad tracks near a busy lumber mill complete with a still-smoking wigwam burner. After I-5 was built, the town crept eastward with a succession of new store buildings two of the newest being the Community Bank of Creswell and Joe Estes' Texaco station directly across the wide street.

Estes' wife, Virgie, was taking care of the station Tuesday and keeping a large pot of free coffee brewing for customers who

Virgie Estes is a smiling, pleasant individ

varieties as a saming, present with utility with the strength of a bit when it comes to "longhairs."

"I have boys working for me, and I treat 'em like my own sons," she says. "The only thing I require is honesty, hard work, and

a haircut."

Mrs. Estes acknowledged that it was the long hair of a young man who walked into the station late Friday and asked for change for a quarter that kept her from studying him closely enough to give a good descrip-

Only a few minutes after Only a few minutes after she gave the change, the young man would walk to the vicinity of a white Oldsmobile parked in an adjacent car wash 200 feet west—and it was from that location that shots were fired that would take the life of the 31-year-old patrol-

Some significant events leading up to the murder began to occur at about 5:40 that

muraer began to occur at about 5.20 that Friday evening. Virgle Estes was trying to finish her chores early at the station so she could attend a Presbyterian dinner that evening with her husband.

Dusk was falling as she gathered up the afternoon's receipts and hurried across the four lanes of Oregon Avenue to the brightly lit, cedar-and-stone bank building that shortly was to become the scene of the fatal robbery

she glanced only briefly Returning, she glanced only briefly at the white 1964 Olds parked inside the farthest of two open-ended buildings comprising the Venda-Wash car wash—not then connecting the car with the young man who followed

r into the station.
"He was in his 20s, with a green sherpa coat and blond hair down to his collar," she recalled. "The way he looked irritated me. He had two quarters in his hand and he said, 'Can you change this?' and handed me one of them. I gave him two dimes and a

In retrospect, Mrs. Estes wonders about the significance of the request for change. The man put exactly 40 cents in the cigaret machine as if he knew the machine would return no change—which happens to be the case. He had not attempted to use the two quarters

Another peculiar thing happened, said Mrs. Estes. "He went over and took the key to the john. The writing on those keys is small, and most people have to look to see which one is which. He just reached out and

took the correct one."

As Mrs. Estes leaned against a counter, she As Mrs. Estes leaned against a counter, she could see the longhatred young man hand the key to someone else outside the station. She only saw the other person's hand take the key. Then the young man strolled slowly toward the Venda-Wash. Shortly after Mrs. Estes left the station, a 17-year-old employe, Sheldon Patrick, watched a dark, foreign made car drive into the bank parking lot with its lights off. A short time later he saw Patrolman Van Derson's prowl car enter the lot and stop just after clearing the curb. Patrolman Van Derson got out, ran around to the rear of the car and crouched with his pistol drawn. Patrick didn't know that Van Derson had

Patrick didn't know that Van Derson had been dispatched to check a silent glarm

Moments later, Van Derson spotted a bearded young man coming out of the bank and ordered him to sit with his hands below his head. What Van Derson didn't know—and what apparently had escaped the attention of the men in the carwash across the street—was that the two men in Halloween masks who had robbed the bank had already fled.

In the dusk-it was quite dark by this

time-did the lookouts mistakely assum that one of their accomplices had been cap-

Whatever the case, several quick shots rang out from the carwash and hit Van Derson just as he started to get up. He pitched forard and died within minutes. The gunmen all fled.

Mr. McCLELLAN, Mr. President, I sub mit that this is important legislation. It will be our purpose when it is referred as I am sure it will be-to the Subcommittee on Criminal Laws and Procedures to move with all due expedition. We have already held a number of hearings on nearly every aspect of the bill. I hoped that we will be able to get the bill re-ported for action to the Senate early

Mr. MANSFIELD. Mr. President, with the introduction today of this highly important omnibus criminal victim bill, I happy to join the distinguished chairman of the Senate Subcommittee on Criminal Laws and Procedures. This is most important step; one needed we are ever to correct a grave deficiency in this Nation's system of criminal justice. What it provides is solid recogni-tion for the victim of crime—the one who suffers most. As Senator McClellan indicated, title I of this measure is pat-terned directly upon my bill, S. 750, a that underwent exhaustive hearings by the Criminal Laws Subcommittee less than 2 weeks ago.

What was then made clear was that the point has been reached where at the national level full consideration must be accorded the victims of crime; those for whom, thus far, the process of criminal justice has failed miserably. Indeed, it is because society as a whole has failed to protect its members adequately that such an obligation has become due to

those who suffer.

I am pleased indeed, that the able chairman of the committee has now embraced the concept of criminal victim compensation. I am pleased as well that he, along with so many others, has come to recognize that at the very least, the victim of crime should be made whole for suffering personal injury. In this regard, title I of the Victims of Crime Act of 1972 does precisely what I sought to do with S. 750. Under it, when fully im-plemented, any person who personally injured in the perpetration of any crime would receive pecuniary compensation. There would be established a Federal Compensation Board or Commission which would make direct awards to the victim for injuries suffered in the course the crime committed within the Federal criminal jurisdiction. In addition, a system of revenue sharing in the form of grants would underwrite similar State compensation programs for the victims who suffer from crimes within State and local criminal jurisdictions.

I would only reiterate that when the protection of society is not sufficient to prevent a person from being victimized, society then has the obligation to com pensate the victim for that failure of protection. This measure, when fully implemented, covers everyone. The unsus-pecting victim of rape. The policeman ambushed answering a routine call. The fireman shot by a sniper when responding to an alarm. The ghetto dweller. The suburbanite. In short, this proposal pro-vides for all who suffer personal injury from criminal violence.

Mr. President, this is a time for bold action. This is a time for Congress to demonstrate to the people of America that it is interested in the problems and suffering of victims of criminal acts. The time has come to give these matters early attention, and I hope that the Judiciary Committee can soon report this and other measures which are designed to give long overdue consideration to the victim.

I gladly join in this measure, I would like to mention that this whole concept of compensation for victims of violent crimes was discussed at length in an article contained in a U.S. News & World Report issue of last April. The author that article undertook a great deal of research and reported the success achieved by crime compensation programs where they presently exist. unanimous consent that the article be printed in the RECORD at the end of my remarks

The PRESIDENT pro tempore. Without objection, it is so ordered (See exhibit 1.)

Mr. MANSFIELD. I had the privilege also of addressing the Subcommittee on Criminal Laws and Procedures at the time of its hearings on my bill, S. 750, a week ago last Tuesday. I ask unanimous consent that my remarks before the subcommittee be printed in the RECORD at the conclusion of my remarks.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 2.)

Mr. MANSFIELD. In closing, I would only add that when this Congress adjourns next year, it is my profound hope that it will do so with the concept of criminal victim compensation firmly implanted into this Nation's system of criminal justice.

EXHIBIT 1

PUBLIC PAY FOR CRIME VICTIMS: AN IDEA THAT IS SPREADING

As violent crimes increase, pressure is building up for a federal law to provide compensation from public funds for innocent victims of those crimes.

Six States—New York, Massachusetts, Maryland, California, Hawaii and Nevada—already have enacted programs for such payments and several other States are considerable. ments, and several other States are considering the idea.

Now bills have been introduced in Connow bills have been introduced in Con-gress to make this type of compensation nationwide. One bill is sponsored by the Senate Majority Leader, Mike Mansfield (Dem.), of Montana, the other by Representative William J. Green (Dem.), of P.

Both bills not only would provide federal payments to persons injured by crimes that come under federal jurisdiction, but also would help States pay victims of crimes under State laws.

In addition, three bills have been intro-duced in the House to compensate those hurt by violators of federal laws.

HEARING ASSURED

Chances for passage of any such law in this session of Congress are regarded as dim But Senson of Congress are regarded as dim But Sensor Mansfield has been given assor-ances that the proposals will at least get a hearing in this session—and backers predict the idea will gain momentum rapidly in years just ahead. 'This is an idea whose time has come,"

"This is an idea whose time has come,"
said Representative Green laws directed at
the criminals, and now we need to turn our
attention to the innocent victims of criminals. It may not be this year, or next, but
eventually we're going to have such a law."
If so, the United States would be far from
the first nation to adopt the idea. Great Brit-

and not New Zealand have been paying crime victims since 1964. Compensation programs are in effect in parts of Canada and Aus-tralia, and Sweden is setting up such a pro-gram. How those plans operate is told on gram, I page 42

Here, in Senator Mansfield's own words, is

how his proposal would work:
"There would be established a federal violent-crimes-compensation commission which
would make direct awards to the victims for
injuries suffered in the course of crimes committed within the federal criminal jurisdic tion.

"In addition, a system of revenue sharing in the form of grants, would underwrite similar State compensation commissions for

similar State compensation commissions for those who suffer from crimes within State and local criminal jurisdictions. ... "The measure I suggest covers everyone: the unsuspecting victim of rape, the policeman ambushed answering a routine call, the fireman shot by a suiper when responding to an alarm, the ghetto dweller, the suburbante. In short, this proposal provides for all who suffer personal injury from criminal violence." violence.

violence."

Wide range of aid. Compensation would not be authorized for offenses against property—
such as theft. Payments would cover expenses resulting from injury or death, loss of earning power, "pecuniary loss" to dependents of the victim—and could also compensate for "pain and suffering."

A limit of \$25,000 would be set for payments to any one persor.

to any one person. Under State pl

to any one person.
Under State plans approved by the proposed federal commission, Washington would
pay 75 per cent of the cost, with the States
paying 26 per cent.

How much would it cost the taxpayer to compensate all the nation's citizens victimized by lawbreakers?

is the big question, raised by oppo-

This is the big question, raised by opponents of ertime compensation and of concern to backers of the plan as well. No clear indication is provided by the brief experience of the few States that have tried the idea. California and New York were the pioneering States in this field—and their programs did not get under way until 1987. Compensation laws were passed by Hawaii in 1987, Maryland and Massachusetts in 1988, and Nevada in 1969.

Rising number of claims. Writing in the November, 1970, issue of "The Insurance Law Journal," Herbert S. Denenberg, a professor at the Wharton School of Finance and Com-merce at the University of Pennsylvania, re-

Experience to date indicates that the costs of these programs can be kept within reasonable bounds."

As these young programs expand, however, and as more people learn about the ald they offer, the number of compensation claims is rising steadily—and bigger increases are seen shead

In Hawali, for example, an official report an interest in the sample, an ometa report says that "only a small percentage of victims of what appear to be eligible crimes committed in Hawaii are filing applications."

This, also, is suggested by one critic of crime compensation:

"If this ever becomes law nationwide, you would see a record number of crimes reported. Many victims are too embarrassed to report rape. But if it becomes worth several thousand dollars, the victim may not mind having her name in the newspapers."

How laws are working. A survey by "U.S.

News & World Report" gives a picture of how the State programs are operating so far. In Maryland, crime victims are compen-sated only when their losses create "serious financial hardship." Payments are limited to a maximum of \$27,500 in a case of or \$45,000 in a case of total disability. of death ards may be paid in a lump sum in monthly payments over a period of time

Here are some examples: A woman, age 69, was assaulted on her way to church by a purse snatcher, and her hip was broken. She was awarded compensation

A 42-year-old man who was ro shot in shot in the pelvis on a public street vawarded: \$2,904 for medical expenses and \$ 694 for time lost from work, plus monthly payments of \$54 and assurances of reim-bursement for future medical bills resulting

om the crime. A widow of a man who was shot to death was first refused compensation because she was first refused compensation because she had approximately \$32,000 in assets. But she won reversal on appeal after showing she had three young children, was unemployed and had an illness requiring extensive hospitalization. She was awarded \$209.60 a month. A 68-year-old widow whose husband was robbed and killed by a gang of youths was denied compensation because she had assets of \$18,000 plus \$119 a month from Social Security.

Over all, in the first year of the Maryland plan's operation—July 1, 1969, to June 30 1970—there were about 1,250 applications According to an official for compensation. report, about 1,000 applications were rejected, 240 were accepted for full investigation, and 105 of those cases were decided with the following results: 63 claims disallowed and 42 awards granted, totaling \$328,000.

\$329,000.

Joseph Pickus, chairman of Maryland's
Criminal Injuries Compensation Board, says
"these figures are low because we were starting from scratch." He predicts that "within
five years the program will be costing about
1 million dollars a year."

Maryland Rodel Rodel

1 million dollars a year."

Maryland Governor Marvin Mandel told an international conference on compensa-tion for crime victims last year that "the program has operated well" and "I think you're going to find in the near future that more and more States are going to get into this program."

"Good Samaritan" program. California has two compensation programs; one for victims of violent crime, another for those injured while trying to prevent a crime or help in the apprehension of a criminal—unwhat is known as the "Good Samarian

Ordinary crime victims must establish Ordinary crime victims must establish need and payments are limited to \$5,000. From this program's beginning in 1967 through February of this year, 1,245 claims were made, 330 were granted for awards totaling \$521,000 and 671 claims were denied, with 242 left pending.

Legislature must approve. Under the "Good Samaritan law" enacted in 1965, there have been only 50 claims, of which 32 were granted for a total of \$137,000. The highest award.

for a total of \$137,000. The highest award, for \$79,500, went to a man who was shot and paralyzed while trying to prevent a husband from shooting his wife. The State legislature must approve each "Good Samariaward, but no evidence of need is

New York State's program for crime vic-tims began March 1, 1967, and since then approximately \$2,320,000 has been paid in compensation.

In the fiscal year ended Feb. 28, 1970, the Crime Victims Compensation Board received 929 claims involving 537 "muggings," 140 murders, 121 stabblings, 120 shootings, 8 rapes and 3 motor-vehicle incidents. In 826 cases, the board made 336 awards. The New York law has no limit on pay-

ments for medical expenses, but total re-imbursement for lost earnings or loss of support may not exceed \$15,000. According to Stanley L. Van Rensselaer, chairman of the Board, the average payment to a crime victim is about \$1,400, the average to de-pendents of a man killed in a crime is \$3,000, and the average to a disabled victim is \$4,071 a year. Hardship must be proved. \$10,000 limit on claims. In Massachusetts, in two and a half vears of the plan's opera-

in two and a half years of the plan's opera-tion, awards have totaled only about \$37,000, but Attorney General Robert H. Quinn predicts that the program will expand, Com-pensation is designed to cover out-of-pocket losses from injuries, and the limit is \$10,000 per claim

Since Hawaii began paying crime victims in 1968, costs have risen steadily. There were 3 awards totaling \$1,000 in 1968, 47 awards for \$111,945 in 1969, and 121 awards for \$267,-157 in 1970—an average of about \$2,200 each.

157 in 1970—an average of about \$2,200 each. In Nevada, under a law passed in 1969, only one payment has been made—and that was for a "Good Samaritan deed" by a man who was shot while trying to disarm a robber. He got the maximum payment permitted—\$5,000. Two more applications have been received since this first award was publicized. But many Nevadans are not aware of the

States interested. Bills to start paying crime victims have been introduced in the legislatures of Illinois, Ohio, Michigan, Arkansas and New Jersey.

Federal crime-compensation programs were proposed in Congress in 1968 and 1970, but falled even to reach the committee-hear ing stage. A plan applying only to the federally governed District of Columbia cleared the Senate last year as a little-noticed part of a broad anticrime measure, but it was dropped from the bill finally passed. Now, with five bills pending in Congress, interest in the idea of helping crime victims

appears to be growling.

Society's responsibility? Former Senator
Raiph W. Yarborough (Dem.), of Texas, who
wrote the D.C. compensation bill, expressed
the feelings of most backers of the idea when he told a committee last year that persons accused of a crime "are given every protection that society can afford them" and said: "What happens to the injured person left lying in the street, sometimes half dead? If

lying in the street, sometimes half dead? If somebody calls an ambulance, the victim has to pay for it. If he goes to the hospital, he loses his saiary from the time he is out from work. . . . He pays his own medical expenses. He pays his own hospital bill.

"Society takes care of the person accused of crime, but does little for the person who is

suffering the injury

HOW CRIME VICTIM IS PAID ABROAD

New Zealand and Great Britain were the New Zealand and Great Britain were the pioneers in the payment of compensation by the Government to victims of crime. Their programs began in 1964. Seven of Canada's 10 Provinces and some States of Australia have compensation systems. And Sweden is ut to start one

In Britain, since 1964, the Government's Criminal Injuries Compensation Board has handled 25,000 cases, made awards in 18,000 of those cases, and has paid out more than 15 million dollars in compensation. In 1969 alone, 4.7 million dollars was paid to 5,000

claimants.
Under Britain's plan, compensation is paid
only in cases involving crimes of violence.
Awards range as high as \$50,000 and generally reflect the amounts awarded in civil

Expansion in U.K.? Criticism of Britain's expansion in U.K.? Criticism of Britain's system is aimed mostly at its restrictions, rather than its performance. A Government investigation in 1970 recommended increasing the number of awards and a bill now before Parliament would liberalize the rules.

In Canada, compensation to crime victims

is financed by the provincial governments. But another plan is being considered that would provide for cost sharing by the Gov-

ernment. Provincial systems vary somewhat, although generally similar. Outario, the most populous Province, received 300 claims last year. An official estimates this number may double in the year ahead, with a predicted total of about \$800,000 in payments. There is a ceiling of \$10,000 for any one claim. Most authorities say the system is working "satisfactorily" in Canada, and the three Provinces which do not now pay crime victims are reported considering compensation plans.

plans

plans.
Sweden's program—scheduled to go into
effect July 1—Ls relatively restricted in
scope. It covers only personal damages and is
intended primarily to compensate people
with small incomes. Amounts of awards will
be based on a means test, Maximum payments are to be fixed at about \$10,000, except in exceptional cases. The Government,
as a rule, will compensate victims only for
economic damages not covered by the national-health program, other welfare benefits

tional-health program, other welfare benefits or private insurance. Authorities expect the cost of the new program to be small at the start—only \$200,-000 is budgeted for the first year. But costs

are expected to grow

Some other European countries, including Norway, Finland, Netherlands and West Germany, are reported to be showing interest in Sweden's experiment.

Ехнівгт 2

TESTIMONY OF SENATOR MIKE MANSFIELD, OF MONTANA, BEFORE THE SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURES, NOVEM-BER 30, 1971

ses 30, 1971

Mr. Chairman, distinguished members of the Committee, I appreciate very much this opportunity to appear before you today. I do so in behalf of the countless thousands of innocent victims of crime. I do so as well out of a deep personal concern for the effects of violence upon society today. With S. 750, I have sought to revive the concept of compensating victims of violent crime. In doing that, I have approached the Issue, not as a lawyer, which I am not, nor as a student of law. I have endeavored rather to view the matter as one who is deeply concerned that recent efforts to stimulate new approaches to stemming and even reversing the everto stemming and even reversing the ever rising rate of crime and violence have for cussed too little attention upon the innocent victims of crime.

By no means, Mr. Chairman, do I wish to

By no means, Mr. Chairman, do I wish to diminish your superb record against criminal elements. No man, inside the Senate or out, has devoted more energy and effort to that end. Thanks in large part to you, Mr. Chair-man, the United States Senate in the last Congress passed 18 or more anti-crime pro-posals. Societties, nevertheless, have suffered the ravages of violent crime and ours has been no exception. Chronicled daily by the press are crimes of the most heinous nature. To meet this situation it seems to me that press are crimes of the most heinous nature. To meet this situation it seems to me that there has been created a system of justice that too often presents an abstraction of the state versus the criminal, which in turn has left the victim unappeased, the government bogged down in court and the criminal becoming more expert at his trade.

coming more expert at his trade.

To be sure, the accused is prosecuted for his crime, and if found guilty, punished by the state. But the victim's sole recourse, within our Federal jurisdiction, is to seek damages by instituting a civil action against the guilty oriminal. At best, this has been an inadequate remedy, considering the financial condition of most perpetrators of violent crime. In fact, a recent survey of victims of violent crimes indicates a bare 1.8% of the victims ever collected anything from their attackers. Yet 74.2% of them surfered economic loss, not to mention the

physical damage and suffering involved. And as the President's Commission on the Causes and Prevention of Violence has documented so well, this alarming increase in the rate of violent crime has persisted and with it, no doubt, the great disparity between those victims who are compensated and those who

and the same time, the victims of this vio-lence have been virtually separated from the crimes. That is a matter of policy. It is a policy that abrogates any social contract that is thought to exist between the citizen and his society. The citizen pays his taxes, no obeys the laws imposed by society and in return he expects—some would argue on a contractual basis—to be protected by those laws from illegal acts which result in injur-and suffering to himself. In short, if society fails in its efforts to provide basic protection then the social contract has been breached; the citizen has suffered. To him there is no particular non-punishable recourse available other perhaps than overt apathy. Reflective of this growing apathy, in my judgment, has At the same time, the victims of this viothis growing apathy, in my judgment, has been the significant increase in the number of cases where victims simply refuse to be-come involved—not as witnesses, not to assist the prosecution, not in preventing the crime, not in assisting a police officer.

In my judgment, this overt apathy or non

participation by citizens in regulatory func-tions of society is about to become a most critical and pressing problem. Today, citizens must recognize that through their plain apathy, they are committing crimes against society. To combat such an attitude, it is my view that we—the elected representa-tives—ought to become more cognizant of the need for legislation that would encourage and even reward, acts that are socially

responsible

responsible.

Another aspect of the problem concerns
the government's task of rehabilitating
criminals. How much violent crime, it should
be asked, is committed at the hands of the
recidivist who has been released upon society
from a penal institution that served only to
modd him into a more hardened and bitter criminal than he was when first incarcerated? His innocent victim has been doubly cheated by society. Not only has it failed to protect him with sufficient police and safety facili-ties, its penal institutions have actually created a more serious threat to law and order by serving as graduate schools for criminals. It has been said that the institutions of

justice have become more concerned with the protection of the rights of the criminal than with the need for law and order in society. To an extent, I would agree. But I feel the major emphasis is misplaced. To me, a major liability with the present system of criminal justice is its utter failure to consider the innocent victim. This is the whole basis for my interest today in reviving the concept of

victim compensation.

As a matter of public policy, social compensation programs are not revolutionary notions by far. Indeed, there is great similarity in rationale and origin between notions of compensating workers, assuring them of a reasonably safe place in which to work, and compensating victims of crime, assuring them a reasonably safe society in which to live. Just as the worker has historically frustrated in his attempts to recover damages, so, too, has the victim of crime today been frustrated. In many cases the offender is not ap-

trated. In many cases the offender is not apperhended. When he is, he is often destitute. Further, present penal methods do not offer the offender an ability to make restitution because he cannot earn a gainful living. Along with the worker compensation concept, other steps have been taken in the past 30 years or more which manifest society's abandonment of its laissec-faire attitudes when facing matters of collective community need. Social security and medicare; sid to dependent children, assistance for the handicapped, the aged and the blind, notions of

no-fault insurance and national health insurance all reflect a recognition of collective responsibility. Fulfilling this responsibility with regard to victims of crime is no easy task. Senate bill 760 attempts to face the problem. If adopted at the Federal level, however, it would by no means represent the first such step taken in modern times. In-deed, within the last ten years, New Zealand. deed, within the last ten years, New Zealand, England, particular provinces in Canada and Australia, have all enacted governmental pro-grams of compensation for innocent victims of violent crimes. In addition, the states of California, Hawali, Nevada, Maryland, Mas-sachusetts, New York, and most recently, New Persaylion, Imogram, L. Jusse, askept some, of

Jernsey, all have enacted some type of compensation program. I have asked some of these states for reports on their experience with the program and submit for the responses I have received.

Though I am not wedded to any particular procedure for achieving the task of recognizing the need for compensating the criminal victim, the main features of my bill do deserve some explanation. First of all, a three-man Violent Crime Compensation Commission would be created. The Commission would compensate innocent victims for injury or death resulting from 18 possible of fenses. The 18 offenses could be grouped generally under the headings of homicide, assaults and sexual offenses of violence, all occurring within the Federal criminal jurisdiction. There would be a maximum limit of

tion. There would be a maximum limit of \$25,000 for each award.

It would be the Commission's duty to examine the evidence presented both to deter-mine what level of compensation should be granted and whether in fact the person making the claim is truly an innocent victim.

With some limitation, the Commission could order the payment of compensation to or on behalf of the injured victim, to the to or on behalf of the injured victim, to the person responsible for his maintenance, to his dependents or close survivors. The authority of the Commission to award compensation would not be dependent on prosecution or conviction of the accused for the offense giving rise to the injury, Obviously, however, the crime would have to be established. lished.
As far as losses covered are concerned,

As far as losses covered are concerned, the proposal would provide compensation for expenses incurred as a result of the victim's injury or death, for the loss of his earning power, for pain and suffering and for any other direct, crime-related losses which the Commission deems reasonaste. Compensation would be denied in cases where the victim was living with the offender or in any case where the Commission flat that unjust enrichment would result to or on behalf of the offender. Decisions and orders of the Commission mould be reviewed by the appropriate Court of Appeals.

of Appeals.

A most important provision would allow the Commission, where possible, to recover over against a convicted assailant the amount of any awards granted on account of his

There is also provided a grant program which would encourage states to establish Crime Compensation systems within their

Crime Compensation systems within their individual criminal jurisdictions. With these hearings, Mr. Chairman, and the study that undoubtedly will follow, I am certain many of the features of this proposal will undergo close examination and un-doubtedly changes for the better will be made. Merging the state programs under made. Merging the state programs under the existing Law Enforcement Assistance Administration is one suggestion that descrees merit. Improvement, may I say, Is an essential purpose of the legislative process. May I say, too, that I am pleased President Nikon's recommendations for a special compensation program for survivors of policemen killed in the line of duty are here being considered along with S. 750.

One final note. Before this Congress ad-One final note. Before this Congress are journs in 1972, it is my hope that the legislative process will have been completed and that there will be established on the Federal level the principle that violent crime is a three-party affair which includes the victim, the criminal and the state. In the last tim, the criminal and the state. In the last 100 years, the criminal and the state have dominated the arena of crime and punishment to the injurious exclusion of the victim. To revive at this time the proposition that citizens are entitled to protection, and failing such protection, that citizens are entitled at least to be compensated for the losses they suffer from violent criminal action, can only serve to strengthen the social fibre of our Nation.

Thank you very much.

Thank you very much.

Mr. HRUSKA. Mr. President, I am very pleased to join with the chairman of the Criminal Laws Subcommittee, Senator McClellan, and others, in introducing this bill: The Victims of Crime Act of 1972.

This proposal, along with those dealing with this same subject which are already before our committee, will afford us the opportunity for additional hearings on this most important subject. Several points of view are represented by these bills. While I do not endorse or approve all of its various parts, I look forward to the opportunity we shall have to study this question from every angle. Hopefully, after this scrutiny including additional hearings and our subsequent deliberations in subcommittee, we report a comprehensive bill which will be as effective, as large in scope, and as representative of all points of view as possi-ble. In this regard I know that the Senator from Arkansas will do his best to canvass all opinion on this subject before hearings are concluded.

In the course of its work, the Criminal Laws Subcommittee has looked at many aspects of crime and has approved legislation dealing with courts, corrections, and the police, as well as substantive criminal law. As in so much that we in Congress do, the exigencies of time and the need to grapple with the most pressing problems first, have resulted in our neglect up to this point of that element of society most deserving of our attention-the crime victim himself. This bill is designed to correct this neglect.

In his introductory remarks Senator McClellan has discussed in great detail the five titles of the bill: First, compensation for victims of violent crime; second, group life insurance for public safety officers; third, death and dis-ability benefits for public safety offi-cers; fourth, civil remedies for victims of racketeering activities; and fifth, general provisions. I do not feel any le-gitimate need would be served at the present time by additional discussion of the individual provisions of this bill by this Senator, I will say that I am pleased that in drafting this bill the chairman has been very sensitive to and respectful of the proper role to be played by the Federal Government and the individual States regarding all aspects of law en-forcement. This is one of the questions which I will want to continue to examine closely in our further deliberations on this subject

As I indicated earlier this Senator is joining in introducing this bill so that it

may serve as a vehicle for hearings and discussion on this important subject. I do not necessarily agree with everything in the bill as presently written and will have to devote considerable study to it before voting to report it or any related bill from the subcommittee. But I do want to emphasize my support for this type of legislation and to indicate my gratitude to Senator McClellan for do-ing the preliminary work on it and for asking me to join him as a cosponsor to-

Mr. GRIFFIN, Mr. President, I rise to commend the distinguished Senator from Arkansas for his leadership again in this important field. He has made a very significant statement.

The legislation which he has described incorporates some features of a concept which the junior Senator from Michigan has advocated strongly in the past. I should like to join with the distinguished ranking minority member of the Judiciary Committee, the Senator from Nebraska. I ask unanimous consent that my name be added as a cosponsor of the measure

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the names of the Senator from Nevada (Mr. Bible) and the Senator from Michigan (Mr. Griffin) be added as cosponsors of the measure

The PRESIDENT pro tempore. With-

out objection, it is so ordered.

Mr. BOGGS. Mr. President, I should like to add my support for the Victims of Crime Act of 1972, which the distin-

of Crime Act of 1972, which the distin-guished Senator from Arkansas (Mr. McClellars) is introducing today. This legislation, I believe, includes many significant features, including compensation for victims of violent crime, grants to State for such reim-bursement, and expanded benefit programs for public safety officers. I support these provisions wholeheartedly. Assistance for the victims of crime and

those who spend ther lives fighting crime is an idea whose time has come. It is a natural response to the rising rate of violent crime throughout the country. While I believe that we must do all we can to strengthen the machinery of law enforce-ment, to improve corrections and rehabilitation programs, and to bring about judicial reform, we must not forget the victims of crime. And I include among the victims of crime the increasing num ber of policemen, corrections officers, and firemen who are killed or injured in the line of duty.

It is not fair that we should ask the victims of crime to tolerate the rising incidence of violent crime and to live in fear of personal harm while we labor to reduce the crime rate. Deliberate we reduce the crime rate. Deliberate we must—for as long and as hard as it takes to find the right mix of social and legal antidotes to crime. In the meantime, we must also recognize our responsibility to its victims

Mr. President, I am especially plea that the Senator from Arkansas (Mr. McClellan) has chosen to draw key elements of title III of this legislation from ments of title 111 of this registation from a bill (8. 2748) which I introduced earlier this year. That bill would pro-vide a death indemnity of \$50,000 for the survivors of police officers, corrections

officers, and firefighters killed in the line of duty, whether they serve at the Federal, State, or local levels. In remarks which I delivered when I introduced that legislation, I pointed out that these men and women live daily with unusual danger to their well-being in order to pro-tect our lives and property. This danger is just as great, and their service is just

as vital whether they serve under a Fed-eral, State, or local jurisdiction.

I also noted that we cannot expect to recruit and retain responsible, family men and women into these increasingly hazardous jobs without offering the kind of protection that survivors compensa-tion provides. This need has already been recognized at the Federal level with a ariety of compensation and benefit plans for law enforcement officers. A \$50,000 death benefit is already provided the survivors of policemen killed in the line of duty in the District of Columbia. The Victims of Crime Act of 1972 would sim-ply acknowledge the national scope of this need by making these benefits uniformly available to all public safety officers throughout the country.
Mr. President, I reiterate my support

for this legislation and urge the Judi-ciary Committee to give it consideration at the earliest possible date.

46 1 Recora,

THE COMMONWEALTH OF MASSACHUSETTS,
GROUP INSURANCE COMMISSION,
Boston, March 10, 1971.

G. ROBERT BLAKELY,

Chief Counsel, Subcommittee on Criminal Laws and Procedures, Senate Judiciary Committee, New Senate Office Building, Washington, D.C.

DEAR MR. BLAKELY: 1. Please accept our appreciate for the opportunity to respond to an inquiry which we received from The Council of State Governments a few weeks ago concerning pending legislation entitled "Public Safety Officers", and, the "Victims of Crime Act of 1972".

2. The Memorandum which we received contained eight (8) questions which are

repeated here for convenient reference:

Question: I. What programs are presently available within your jurisdiction in the way of death and dismemberment programs for "Public Safety Officers" as

defined by S. 2994?

Answer: I. The Commonwealth of Massachusetts on both the State and local governmental unit level provides an excellent program of life and AD&D insurance for all employees and retirees including "public safety officers" as defined by S. 2994. The following programs are provided:

1. STATE LEVEL

(a) Mass. G.L. Ch. 32A, Section 6, provides for \$2,000 of Basic life and AD&D

insurance for all employees and retirees.

(b) Mass. G. L. Ch. 32A, Section 10A, provides additional life and AD&D insurance for all employees in an amount based upon their annual compensation. The maximum amount of additional life insurance is \$21,000 and the maximum of AD&D insurance is \$21,000.

(1) A further additional amount of accidental death insurance is payable in an amount equal to three times the sum of additional group life and group AD&D insurance applicable to an insured employee where such employee dies while in the performance of his duties as a result of a robbery or attempted robbery. The maximum payable under this provision is \$126,000 and with the optional life and AD&D maximum additional life insurance of \$21,000 and AD&D of \$21,000 the total amount payable under such computation is \$168,000 plus the \$2,000 basic life and \$2,000 basic AD&D or a total of \$172,000.

2 LOCAL GOVERNMENT UNIT (HOME RULE ACCEPTANCE REQUIRED)

(a) Mass. Chapter 32B, Section 5, provides for \$2,000 of basic life and \$2,000 of basic AD&D for all eligible employees and retirees including public safety officers, as defined by S. 2994.

(b) Mass. Chapter 32B, Section 11A, provides additional insurance in an

amount based upon annual compensation.

(1) The maximum additional life insurance under this program is \$21,000 and the maximum additional AD&D insurance is \$21,000.

(c) Mass. Chapter 32B, Section 11D, provides Accidental Death Insurance for

policemen and firefighters.

(1) Payment is made for an insured policeman or firefighter who dies as a natural and proximate result of a bodily injury accidentally sustained or a hazard undergone as a result of and while in the performance of his official duties.

(2) A policeman or firefighter is eligible for insurance equal to twice the maximum amount to which he would be entitled if insured for the maximum amount of additional life insurance described in 2. (b) above. That is, a policeman or firefighter is entitled to be insured for a maximum of \$42,000 of life insurance in addition to the amounts indicated in 2. (b) above.

Question: II. What costs must be met by those individuals as well as units

of government covered by these programs?

Answer II. The costs for the presently available life and A.D. & D. programs are as follows:

1. STATE LEVEL

(a) Active employees pay 25% of the basic \$2,000 of life and \$2,000 of basic AD&D insurance with the Commonwealth contributing the remaining 75% of the monthly premium (rate).

(b) The active employee pays the entire premium (100%) for the additional

life and accidental AD&D insurance.

(c) A Retired employee pays 50% of the premium cost of the basic \$2,000 of life and \$2,000 of basic AD&D insurance with the Commonwealth contribut-

ing the remaining 50% of the monthly premium (rate).

(d) The Retired employee pays the entire premium (100%) for the Additional life insurance until age 70 at which time a conversion right is issued to apply for an individual policy without the requirement of medical evidence of insurability.

2. LOCAL GOVERNMENT UNIT (HOME RULE ACCEPTANCE REQUIRED)

(a) In almost all instances, both the Active and Retired employees contribute 50% of the premium for the Basic life and AD&D insurance with the local unit

contributing the remaining 50% of the monthly premium (rate).

(1) If, however, a local Governmental Unit elects to provide a subsidiary rate, the additional amount may be contributed by the local Governmental Unit which in effect allows the governmental unit to pay up to 99% of the total monthly cost with the employee paying the remaining 1% of the total monthly cost.

(b) The retired employee pays the total premium for Additional life and AD&D insurance until age 70 at which time a conversion right is granted for issuance of an individual life insurance contract without the requirement of

medical evidence of insurability.

(c) The Accidental Death insurance for a policeman and firefighter is paid by a 50% contribution from the employee and the remaining 50% from the Governmental Unit. In addition, the Governmental Unit may elect to pay a subsidiary rate which provides in effect for a total monthly cost payment from the Governmental Unit of 99% of the total monthly cost with the policeman or firefighter making payment of 1%.

Question: III. How do these insurance costs compare to those incurred by employees other than public safety officers in government and private employ-

ment in occupations at the same income levels?

Answer: III. The premium payment by public safety officers are the same as other State and local Governmental unit employees. No distinction is made because of the status of public safety officers. However, with respect to local Governmental units an additional type of insurance—Accidental Death for police-

man and firefighters—is available for local implementation.

1. The Commission conducted a special study of Governmental employees' group life and health insurance programs throughout the various States, the Federal Government and private industry in 1970 and completed such study on December 31, 1970. Of the nine major private business corporations doing business in Mass., which were surveyed, we find that all nine provided a program of life insurance for their employees. Four companies provided amounts of life insurance for active employees approximately twice the amount of the employee's annual salary. The remaining five companies have varying plans of life insurance. Also five companies provide additional or optional life insurance programs. At least seven of the companies have life insurance benefits for retirees but in each case at reduced amounts as compared with active employees. The premium contribution by the company is 100% for active employees and 100% by the company for retired employees with respect to seven companies. A precise comparison of premium costs has been difficult since the programs are not entirely comparable.

Question: IV. Should the programs offered by Titles II and III of S. 2994

supplement or supplant programs currently available to you?

Answer IV. In our opinion, the programs offered by Titles II and III of S. 2994 could supplement the programs currently available in Mass.

1. The Commonwealth provides excellent programs of life and AD&D insur-

ance for both its State and local Governmental unit employees.

- 2. The supplanting of life and AD&D insurance by a Federal program will seriously and adversely affect the life and AD&D programs of those employees who are *not* public safety officers.
- 3. Many public safety officers will find upon retirement that it would have been more advantageous to have continued under the presently existing state and local programs rather than to be precluded from them upon their retirement.
- 4. The State's program of health insurance requires that the employees also participate in the life insurance programs. Thus, a dropping out of the life in-

surance coverages (to accept a federal program for public safety officers) will

cause them to lose their health insurance.

Question: V. Which would you prefer, the two-stage State or Federal program envisioned by Title II of S. 2994 or a Direct Federal program or Federal subsidy of an existing State or Local program as suggested by S. 33 and S.

1946? Why?

Answer: V. This question is obscure without having a copy of S. 33 available for study, it is preferable to cite what the ideal statute would provide if such is required in the first instance. In our opinion, the soundest program—taking full consideration of the varied levels of coverage to be found in the fifty states, as well as the importance of maintaining local control over fiscal and administrative matters—would provide for a two-stage program. First of all, the program should be voluntary, by application of the Governor of each state wishing to participate in a *supplemental* program of life and AD&D insurance. The desirable features of such a program should provide, in part, the following:

1. State administration and control through an existing state agency or a

suitable new agency if there is no existing state agency.

2. Funding by the Federal government with participation in the premium

payment by the insured "public safety officers".

Question: VI. Do you see any long-term danger to the independence of local police forces from the establishment of direct federal salary-type supplements?

Why?

Answer VI. In our opinion, both a long-term and a short-term danger to the independence of local police forces exists whenever compensation is provided from a source other than that to which the "public safety officer" is directly responsible. The history of legislation such as that in question, in our opinion, is that an initial step is taken which, in and of itself, may be acceptable but subsequent to its passage, modifications are made to the legislation, which may distort its original purpose.

While no one would argue against the need for adequately compensating policemen, firefighers, and employees of correctional institutions, it is important to provide safeguards for existing programs of compensation, as well as ensure

the efficient management potential of local control.

Question: VII. Should Congress decide it would be appropriate to enact either Title II (or the alternatives of S. 33 or S. 1946) of Title III, but not both,

which would you prefer to see enacted? Why?

Answer: VII. We prefer to see Title II amended simply to reimburse the State (for the cost of the programs applicable to public safety officers) rather than to have a federal program that "draws away" from the state's insured population, because we are concerned that the remaining numbers of insureds will be placed in a highly adverse insurance-risk position.

Question: VIII. Should all of those currently covered by the term "Public Safety Officer" be included in the same program? Or would it be advisable to set up separate programs for each separate category of "Public Safety Officer"?

Answer: VIII. The definition of public safety officer in Titles II and III leaves much to be desired. In our opinion, a reasonable interpretation of such definition would provide for the inclusion of junior clerk typists who interview parolees; judges of any court dealing with criminal matters; and Registry of Motor Vehicle inspectors. Precise drafting, in our opinion, requires a more specific definition of "public safety officer" in order that the intent of the legislation be unmistakably clear.

3. It is hoped that our response to the aforementioned questions are clear. In any event, we wish to urge as strongly as we can that any federal insurance program federally controlled and centrally administered, such as we interpret from S. 33 and S. 1946, would have a very detrimental effect upon the life insurance

programs we have here in Massachusetts for governmental employees.

(a) Our research indicates that the *average* age of our active state employees would be *increased* if all public safety officers, who are generally of a lower average age, were to be attracted away from the state programs. Consequently, the non-public safety officer employees would be required to pay a higher rate! A higher rate or even worse a predictable escalation of rates for our Additional (employee-pay-all) Life insurance program would be disastrous within a relatively short period of time. We believe that this very real potential should be avoided at all cost!

(b) A relatively high percentage of public safety officers make up the insured population of employees of local governmental units. A federal program such as S. 33 and S. 1946 proposes would destroy the local programs almost overnight.

(c) It may be true that among the various states, Massachusetts has life insurance coverages for all governmental employees at a rather high level. These programs are linked with health insurance programs in order to maintain a broad base of participation which in turn tends to hold premiums (rates) in check, as well as governmental costs.

(d) We again stress that federal funds supporting our existing programs

would better meet the intent of the proposed legislation before you.

 If we may be of further assistance, we shall be more than pleased to reply. Sincerely yours,

WILLIAM A. BURKE, Executive Secretary.

DEPARTMENT OF GENERAL SERVICES, Sacramento, Calif., March 2, 1972.

G. ROBERT BLAKEY,

Chief Counsel, Subcommittee on Criminal Law and Procedures, Senate Judiciary Committee, New Senate Office Building, Washington, D.C.

Dear Mr. Blakey: In response to your letter of February 17 to Brian R. Van Camp, we cannot foresee any adverse impact on any State's group insurance program if this Federal Legislation were enacted. Section 4800 of California Labor Code provides a continuation of the regular salary to a California Highway Patrolman, disabled by injury or illness arising out of and in the course of his duties, for a period not exceeding one year. This is in lieu of payments to him under the California Workmen's Compensation Law. As of April 1, 1972 the death benefits under California Workmen's Compensation Law will be \$28,000, required to be paid by any employer (or Workmen's Compensation carrier) to the dependents of any employee, killed in the course and scope of his employment. There are certain employee group sponsored life insurance plans that are paid for under group plans by individual State employees, including peace officers employed by the State. We could easily foresee the replacement of such voluntary subscribed insurance paid by State peace officers by the State-Federally sponsored plans under S. 2994.

For that reason we cannot foresee any conflict with present insurance benefits provided under California statutes and believe that S. 2994 would be a valuable supplement to present statutory benefits. As respects Title I, the State of California is one of the States that now has a statutory plan to reimburse victims of violent crimes (see Sections 13960–13966). California Government Code).

violent crimes (see Sections 13960-13966), California Government Code). As we understand it, the Federal Government plan to compensate such victims will provide some financial support for those States who now have a plan similar to California. If that support is incorporated into the Federal plan, it would appear compatible with our statutes. Also, the amount of any award made by the State to a victim would be deducted from the award made to him under the proposed statutes.

Sincerely,

EUGENE D. MARQUART,
Insurance Officer.

COMPTROLLER GENERAL, Atlanta, Ga., March 2, 1972.

Mr. G. ROBERT BLAKEY,

Chief Counsel, Subcommittee on Criminal Laws and Procedures, Senate Judiciary Committee, New Senate Office Building, Washington, D.C.

DEAR MR. BLAKELY: This is in reply to Mr. Lanny Proffer's letter dated Febary 7, 1972.

I am unaware of the impact the currently pending federal legislation would have on any state or local group life insurance programs for "public safety officers".

I have no knowledge of any state or local funded group life insurance program for "public safety officers" in Georgia, neither do I have any knowledge of any state or local funded group life insurance program for "public safety officers" in Georgia, neither do I have any knowledge of any state or local subsidized group life insurance program or plan for "public safety officers".

Sincerely,

JOHNNIE L. CALDWELL, Insurance Commissioner.

STATE INSURANCE DEPARTMENT, Little Rock, Ark., February 29, 1972.

Mr. G. ROBERT BLAKEY.

Chief Counsel, Subcommittee on Criminal Laws and Procedures, Senate Judiciary Committee, New Senate Office Building, Washington, D.C.

Dear Mr. Blakey: On February 17, 1972, we received a request from Mr. Lanny Proffer of the Council of State Governments to give our answers to and comments on several questions which he propounded regarding S. 2994, the "Victims of Crime Act of 1972", and related legislation. We now submit this material for your consideration.

1. What programs are presently available within your jurisdiction in the way of death and dismemberment programs for "public safety officers" as defined by

S. 2994?

Acts 44, 48 and 49 of 1972 establish a system whereby all state employees and agency employers which choose to participate jointly pay premiums for life and/or disability (including hospitalization) insurance coverage. The program is instituted, managed and reviewed by the State Employees Insurance Advisory Committee pursuant to criteria promulgated by the State Insurance Commissioner. An agency may participate if 75% of its eligible (i.e., active and permanent) employees, excluding those of non-satisfactory insurability, elect to do so.

This obviously covers state public safety officers.

We are advised by the Department of Finance of the City of Little Rock and the Arkansas Municipal League that local public safety officers, in addition to a \$10,000.00 payment to their estate upon their demise in the line of duty as directed by state law, are covered by one or more group policies. For example, the City of Little Rock maintains a group policy for all city employees for which it pays half the cost of the premium which will pay an amount equal to the salary of the employee. Little Rock city employees also maintain a life insurance policy for which they pay all of the premiums which will pay \$8,000.00. The city does not contribute to this program. A comprehensive major medical plan is serviced by the Arkansas Municipal League. It provides for a \$20,000.00 maximum lifetime benefit and the first \$500.00 in hospital expenses, plus 80% of such expenses thereafter. Approximately 100 cities subscribe to the League's program.

2. What costs must be met by those individuals as well as units of government

covered by these programs?

Act 44 of 1972 authorizes \$5.00 per month to be paid by the State to defray its share of the costs for life and disability insurance. The same Act appropriates \$1,008,540.00 to help defray the State's share of costs for a hospital and medical services program. Individual contributions have not yet been determined but will probably be available on or about April 15, 1972.

3. How do these insurance costs compare to those incurred by employees other than public safety officers in government and private employees in occupations

at the same income levels?

The Committee referred to in the answer to Question #1 has not yet executed a contract of insurance so there are no policies presently in force under the new program. However, we have no reason to believe that the Arkansas experience

will deviate from the national norm.

We can find no indication that rates for public safety officers are any higher than those for other government employees. Indeed, all group policies which have been brought to our attention do not attempt to segregate public safety officers from other public employees, whether at the state or local level. However, at least one spokesman for the industry indicated that there woud be a slight rating up for double indemnity coverage of public safety officers but this rating up would not be significant and, in any event, public safety officers would not be completely excluded from double indemnity coverage.

4. Should the program offered by Titles II and III of S. 2994 supplement or

supplant programs currently available to you? Why?

Such programs should supplement rather than supplant programs currently available in this state. The machinery outlined above is sufficiently flexible to allow the State's Group Insurance Trust Fund to be partially funded pursuant to Title II, those funds being specifically earmarked for use by state public safety officers. There is no reason to believe that group coverage at local levels could not be supplemented in a similar manner.

5. Which would you prefer, the two-state or State or Federal program envi-

sioned by Title II of S. 2994 or a direct Federal program or federal subsidy of an existing state or local program as suggested by S. 33 and S. 1946? Why?

While all three bills are totally acceptable to the Department, we would favor the program which would allow maximum participation and control at the state level. Therefore, our preference is S. 2994.

6. Do you see any long-term danger to the independence of local police forces from the establishment of direct Federal salary-type supplements? Why?

The subject matter of this question is beyond the purview of the Department

of Insurance, so we should refrain from comment thereon. 7. Should Congress decide it would be appropriate to enact either Title II

(or the alternatives of S. 33 or S. 1946) or Title III, but not both, which would you prefer to see enacted? Why?

The recovery pursuant to Title III would supplement, rather than be incorporated into, existing state programs. Thus, instead of recovery from one source, i.e., the state partially Federally funded program, the claimant could recover under two programs, that of the State and Federal Title III. As mentioned in the materials which we have reviewed, Title II and Title III are two separate plans and should be recognized as such.

8. Should all of those currently covered by the term "public safety officer" be included in the same program? Or would it be advisable to set up separate

programs for each separate category of "public safety officer"?

For the sake of simplicity, it is probably not necessary to divide all those currently covered by the term "public safety officer" into separate categories. Such categories would make it more difficult to earmark funds as mentioned in the answer to Question No. 4 above.

If this Department can be of further service to the Subcommittee in its consideration of S. 2994 and related legislation, please feel free to call upon us.

Governor Bumpers sends his kindest personal regards to you and the members of the Subcommittee.

Yours very truly,

A. GENE SYKES, Insurance Commissioner.

DEPARTMENT OF COMMERCE, INSURANCE DIVISION, Salem, Oreg., February 25, 1972.

Mr. G. Robert Blakey,

Chif Counsel, Subcommittee on Criminal Laws and Procedures, Senate Judiciary Committee, New Senate Office Building,

DEAR MR. BLAKEY: Attached are answers to the questions sent to us by Mr. Lanny Proffer, Special Assistant in The Council of State Governments Washington office.

Sincerely,

CORNELIUS C. BATESON, Insurance Commissioner.

(Enclosure.)

ANSWERS TO ILLUSTRATIVE QUESTIONS

- 1. On or before July 1, 1973 each public employer must provide at least \$10,000 of life insurance for occupational injuries to police or firemen at the expense of the employer. A, B & D and other coverages are avilable on a private purchase basis.
 - 2. None, except for increased limits for coverages which may be elected.

3. Favorably.

- 4. Should supplement present programs because \$10,000 coverage is not sufficient.
- 5. A Federal payment to the employer to allow local choice of a sound licensed and regulated insurer.
- 6. Not unless the Federal Government threatens to withdraw the subsidy as a weapon to force compliance with other statutes.

7. Title II.

8. As to the Federal subsidy, all insureds should be treated identically though there should be permission to apply the subsidy to variant local programs.

THE DEPARTMENT OF INSURANCE, Indianapolis, Ind., February 29, 1972.

Mr. G. ROBERT BLAKEY,

Chief Counsel, Subcommittee on Criminal Laws and Procedures, Senate Judiciary Committee, New Senate Office Building, Washington, D.C.

Dear Mr. Blakey: I am submitting copies of the Indiana laws regarding insurance available to public safety officers. This submission is in connection with Titles II and III of S. 2994. Since the McCarran Act, P.L. 15, 79th Congress, places the administration of insurance with the states the proposed legislation seems to be an extension of federal authority into the insurance field.

The costs of the programs can be obtained by the local municipalities at their cost. Nothing has been brought to our attention to indicate that these people have any troubles whatever in obtaining this coverage on the same basis as other

insured individuals.

If this bill is enacted to include insurance service we feel very definitely that

the existing plans should not be supplanted.

The Indiana Criminal Justice Planning Agency would be a logical center for any disbursements to be used by the state in this type of service. This means that the federal program should not do any more than supplement the insurance available at this time through the local units of law enforcement. The direct placing of any police or firemen or units might well lead to a federal police force in the long run. The pending legislation should be written so that this possibility will never materialize.

If only one of the insurance factors is considered, Title III would definitely be in the best interests of the state since no problem seems to exist at this time under II. Further, this would leave the control in the state or local unit of government and prohibit the fear of the federal police force mentioned above.

The method of setting up any program separate or combined would be of little

consequence as long as the ultimate objective of availability is reached.

Yours very truly,

Walter S. Christie, Deputy Commissioner.

TITLE 19. LOCAL GOVERNMENT SERVICES

Article 1. Public Safety

Chapter 12

LIFE AND DISMEMBERMENT INSURANCE FOR POLICE AND FIREMEN

Sec.

1. [Life and dismemberment insurance for local police and firemen.]

§ 1. [Life and dismemberment insurance for local police and firemen]

On and after the effective date of this act every city, town or township of this state having a regularly organized full-time fire department employing full-time firemen, or having a regularly organized full-time police department employing full-time policemen, may procure at such city's, town's or township's expense an insurance policy for each member of said fire department or police department insuring such member against the loss of his life or dismemberment while in the performance of his regularly assigned duties as a fireman or policeman. (Source: Acts 1959, c. 299, § 1; as amended by Acts 1965, c. 26, § 1.)

Chapter 19

INDEMNIFICATION OF POLICEMEN

Sec.

- 1. [Indemnification of local policemen—Ordinance.
- 2. —Insurance.
 3. —Appropriations.]

§ 1. [Indemnification of local policemen—Ordinance]

Any city or town is authorized to enact an ordinance providing for the indemnification of the police officers of the city or town for any judgment recovered against them, in any court of law, growing out of a civil action brought against such officers to recover damages to person or property resulting from the alleged acts of negligence, wrongful acts or omissions of the police officers while acting within the scope of their authority and employment. (Source: Acts 1963, c. 297, § 1.)

§ 2. [—Insurance]

Any city or town is authorized to procure insurance to indemnify the police officers of the city or town against liability for injuries or damages to person or property resulting from the alleged acts of negligence, wrongful acts or omissions of the police officers while acting within the scope of their authority and employment. (Source: Acts 1963, c. 297, § 2.)

§ 3. [—Appropriations]

The common council of any city or town, or the board of trustees of any town, is authorized to appropriate from the general fund of the city or town an amount sufficient to pay any indemnities authorized to be paid by the provisions of this act, and any premiums for the purchase of indemnity insurance, (Source: Acts 1963, c. 297, § 3.)

Chapter 40

VOLUNTEER FIRE COMPANIES

Sec.

- 1. [Volunteer fireman-Definition.
- 2. Municipality-Definition.
- 3. Volunteer fire company or fire-fighting association-Definition.
- 4. Nominal compensation-Definition.
- Clothing and automobile use allowance for volunteer fire department members.
- 8. Disability insurance for volunteer fire company members—Payments to member.
- 9. -Policy provisions.
- 10. Payment of premiums.]

§ 1. [Volunteer fireman—Definition]

The term "volunteer fireman" as used in this chapter means a fireman who of his own free will has volunteered to assist either without compensation or for nominal compensation, in fighting all fires occurring within the corporate limits of the municipality of which he is an assigned member who shall have made application in writing for membership in the volunteer fire company or association of the municipality and who by virtue of that application shall have been elected or appointed to membership in that volunteer fire company and whose name shall have been entered on a roster of volunteer firemen which shall be kept by the volunteer fire company, and which shall have been approved by the proper municipal officers, and who at the time of his election or appointment shall have taken and signed a pledge to comply with all orders that may be given by the chief, assistant chief or other officer in charge of the volunteer fire company, relative to any matter pertaining to the work of such volunteer fire company. (Source: Acts 1967, c. 200, § 1; as amended by Acts 1971, c. 287, § 1.)

§ 2. [Municipality—Definition]

The term "municipality" means a city, town or township. (Source: Acts 1967, c. 200, § 2.)

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19-1-40-3 INDIANA RELATED LAWS

§ 3. [Volunteer fire company or fire-fighting association— Definition]

The terms "volunteer fire company" or "volunteer firefighting association" means any company or association organized for the purpose of answering fire alarms and extinguishing fires, the members of which receive no compensation or nominal compensation for their services thus rendered, and for the purposes of this act the words "company" and "association" may be used interchangeably. If one (1) or more members of any such volunteer fire company shall be paid compensation in any amount not in excess of the amount set out by section 4 of this act by any such municipality, or if the municipality shall provide for the payment of a nominal prescribed amount of compensation per annum to any one (1) or more members of the volunteer fire company, or a prescribed amount for each fire which any such fireman assists in extinguishing, or for each call to which any such fireman responds, the fire company shall be deemed to be a volunteer fire company, notwithstanding the payment of any such compensation, and each and every member of the fire company who serves either without compensation or for nominal compensation, shall be entitled to avail himself of the provisions of this act. (Source: Acts 1967, c. 200, § 3.)

For "section 4", see 19-1-40-4.

§ 4. [Nominal compensation—Definition]

The term "nominal compensation" includes any sum of money not in excess of one thousand seven hundred fifty dollars (\$1,750) per annum. (Source: Acts 1967, c. 200, § 4; as amended by Acts 1971, c. 287, § 2.)

§ 6. [Clothing and automobile use allowances for volunteer fire department members]

Unless otherwise provided by contract, each municipality served by a regularly organized volunteer fire department shall pay to the active and participating members thereof a clothing allowance not less than fifty dollars (\$50.00) nor more than seventy-five dollars (\$75.00) a year, and shall also pay each such member not less than ten dollars (\$10.00) nor more than seventy-five dollars (\$75.00) per year as an automobile allowance for the use of such member's automobile in the line

VOLUNTEER FIRE COMPANIES 19-1-40-9

of duty. (Source: Acts 1967, c. 200, § 6; as last amended by Acts 1971, c. 287, § 3.)

§ 8. [Disability insurance for-volunteer fire company members —Payments to member]

Each policy of insurance shall provide for payment to the member of the volunteer fire company, who meets with an accident causing disability that prevents the member from pursuing his usual vocation, if the accident and injury were caused by and arose out of the duties of the member as a volunteer fireman, a weekly indemnity of not less than fifty dollars and that, during the period of injury or disability, the fireman shall be furnished free of charge, an attending physician and such surgical, hospital and nursing services and supplies as needed.

The weekly payments shall continue as long as the disability continues, but the aggregate amounts to be paid to or on behalf of any such member on account of any one injury or disability shall not exceed ten thousand dollars. (Source: Acts 1967, c. 200, § 8.)

§ 9. [—Policy provisions]

The policy of insurance required by section 7 of this act shall also provide for the payment of a sum not less than twenty thousand dollars (\$20,000) to the beneficiary or beneficiaries or to the estate of any such volunteer fireman in the event of death of the volunteer firemen caused by an accident, injury or injuries received by him while in the performance of his duties as such.

The policy of insurance shall also provide for the payment a sum of not less than twenty thousand dollars (\$20,000) to the volunteer fireman if he becomes totally and permanently disabled by accident arising out of the performance of his duties as such volunteer fireman, but the aggregate payments under the policy shall not exceed twenty thousand dollars (\$20,000).

Each policy shall also provide for indemnification to any member of any volunteer fire company, who becomes permanently, partially disabled or permanently, partially impaired as a result of any injury received by him in the performance of his duties.

19-1-40-10 INDIANA RELATED LAWS

For the purposes of this section, permanent, partial disability or permanent, partial impairment shall be indemnified as percentage factor of a whole man, based on a maximum indemnity of two hundred (200) weeks or ten thousand dollars (\$10,000), whichever shall come first. (Source: Acts 1967, c. 200, § 9; as amended by Acts 1969, c. 308, § 2.)

§ 10. [Payment of premiums]

All expenses incurred for premiums of the insurance required by section 7 of this act shall be paid out of the general fund of the city or town or the township fund of the township in the same manner as other lawful expenses in the city, town or township are paid. (Source: Acts 1967, c. 200, § 10.)

STATE OF ILLINOIS, DEPARTMENT OF INSURANCE, Springfield, Ill., February 29, 1972.

Mr. G. ROBERT BLAKEY,

Chief Counsel, Subcommittee on Criminal Laws and Procedures, Senate Judiciary Committee, New Senate Office Building, Washington, D.C.

Dear Mr. Blakey: Under date of February 17, 1972, Director James Baylor of the Illinois Insurance Department, received a letter from Mr. Lanny Proffer of the Council of State Governments. Mr. Proffer asked that we respond relative to a study being conducted by your Subcommittee relative to the requirement or the possible requirement of certain insurance levels for all public safety officers. Mr. Proffer asked that the response be directed to yourself with a carbon copy to him. Director Baylor has asked that I personally respond to this matter.

The only public safety officers who are remunerated under the State of Illinois employees system who would be affected by any type of legislation would be the State Police and possibly the Police Officers located on the various Universities who are also paid by the Universities. The State Employees Group Insurance System provides comprehensive accident and health insurance benefits for all employees plus at the option of the employees dependents coverage for all dependents of the employees. The employees must pay the cost of the dependents coverage. The State Insurance System also provides group life insurance for all employees. The amount of the group life insurance coverage provided for by State funds amounts to ½ of one year's salary for each employee. Additionally, the employee has the option of purchasing an amount of group life insurance equal to another ½ of his salary. Thus, each State employee is automatically covered for ½ of his annual salary plus he has the option of securing an additional amount of coverage equal to ½ of his salary. Accidental death and dismemberment benefits are also available at the employee's option.

In the State of Illinois, all municipalities having 5,000 or more persons resident in the municipality must have a pension fund for all police and fire officers. This pension fund contains liberal benefits and it does also contain liberal death benefits in the event of death due to service. Thus, the widow's benefit portion of the local retirement systems should be closely considered before adding an additional level of death benefits. By and large, the retirement benefits provided for the public safety officers in the State of Illinois are extremely liberal when compared to the general level of retirement benefits provided for any other segment of the population. Additionally, some municipalities have specific group life insurance benefits available for their public safety officers. We have not received any complaint from the municipalities relative to the rate levels which they must

pay for the benefits which they provide for the public safety officers.

All life insurance companies certainly consider the extra risk applicable in a public officer's life when they quote a premium rate for such public safety officer. However, the extra risks applicable to public safety officers is not as great as the extra risks applicable to certain other types of occupations. For example, miners and glass workers experience significantly higher mortality than do public safety officers. Thus, there is generally no real difficulty in obtaining life insurance coverage for individuals who are public safety officers and most group life insurance companies will write group life insurance coverage on public safety officers at a reasonable premium rate. The premium rate which must be expected would be that which would pay for the costs of the benefits or the expected benefits to be paid out by the public safety officers. In other words, the premium would be generally greater than the premium required for a group of white collar workers but certainly would not be of the magnitude required for mine workers or glass workers.

In conclusion, any Federal insurance system which would provide coverage for public safety officers would almost necessarily require that the State insurance system be amended to prevent duplication of coverage for such public safety officers. The only public safety officers who would be so affected directly in the State system would be the State Police. Cognizance should be taken of the Employee Benefit Programs—namely the retirement plans—of the local police funds to assure that the police are not actually receiving benefits greater than that which would be normal. Most retirement plans for police officers contain widow's benefit provisions and the like which are quite liberal in comparison to the benefit

fits provided for the general industrial community.

Very truly yours,

ROBERT L. PAWELKO, Supervising Deputy, Life and Actuarial Divisions.

STATE OF LOUISIANA, COMMISSIONER OF INSURANCE, Baton Rouge, La., February 29, 1972.

Re victims of Crime Act of 1972.

Mr. G. Robert Blakey.

Chief Counsel, Subcommittee on Criminal Laws and Procedures, Senate Judiciary Committee, New Senate Office Building, Washington, D.C.

DEAR MR. BLAKEY: We have received a request from the Council of State Governments dated February 17th that we comment on this proposed legislation, to the extent that it might have an adverse impact on our state group insurance

program.

After due consideration in the matter, we do not believe that the legislation, if enacted, would have any adverse impact on our present state group insurance program. Certainly the portion dealing with insurance coverage on public safety officers would not adversely affect our present program. At the present time, the state of Louisiana and its employees are covered under one master group contract providing both life insurance, basic coverage and major medical coverage in an amount which I believe will be sufficient to meet the standards required by the new act. Employees of municipalities and other public sub-divisions are not presently covered by the state master contract, and apparently this new legislation would be of some benefit to them.

Sincerely yours,

DUDLEY A. GUGLIELMO, By EDWARD H. WRIGHT, Attorney.

STATE OF NORTH CAROLINA, INSURANCE DEPARTMENT, Raleigh, N.C., March 15, 1972.

Mr. G. ROBERT BLAKEY.

Chief Counsel, Subcommittee on Criminal Laws and Procedures, Senate Judiciary Committee, New Senate Office Building, Washington, D.C.

DEAR MR. BLAKEY: This letter is in response to a letter dated February 17, 1972 from Mr. Lann Proffer, Special Assistant to the Council of State Governments requesting certain information that has a bearing on Title I and Title II of U.S. Senate Bill 2994.

The following answers are given in response to the "illustrative" questions at-

tached to Mr. Proffer's letter.

Programs available in the State of North Carolina by way of death and dismemberment benefits for public safety officers as defined by Senate Bill 2994 and how financed:

Workmen's Compensation Act: Based on average weekly wage maximum amount of benefit in most cases is \$20,000. Covers disability and death from on the job injuries (Chapter 97 of the General Statutes of North Carolina). Act covers State and local employees. Paid for by employer.

Fireman's Death Benefit Act: \$5,000 death benefit covers all firemen in the State while in discharge of official duties (copy of applicable legislation en-

closed). Paid for by State of North Carolina.

Fireman's Local Relief Fund: Death and disability benefits but amount and determination thereof are variable. Intended to cover death, disease, injury and disability having relation to employment (copy of applicable legislation and rules regarding administration is enclosed). Fund covers employees of all local fire departments. Paid for by fire insurance companies doing business in the State.

Law Enforcement Officers Benefit and Retirement Fund: \$5,000 death benefit; \$1,000 funeral expenses; \$500 for dependent wife; \$250 for dependent children up to three. (Pamphlet explaining law and administration is enclosed). Avail-

able to State and local law enforcement officers. Paid for by State.

Teachers and State Employee Retirement System: Additional death benefit of up to \$15,000 which matches annual salary up to \$15,000. Not conditioned as to on-the-job injury. Program contains disability provisions (pamphlet explaining benefits enclosed). Available to all State employees. Funded by equal contributions from employee and employer.

For most State employees, effective July 1, 1972, the State will now provide \$3.00 a month for disability insurance and \$10.00 a month toward hospital

insurance.

In response to question No. 3 of the "illustrative questions" posed, it would appear that state employed law enforcement officers can obtain group life insurance in amounts up to \$15,000 at rates comparable to the rates charged other

state employees.

Unfortunately, without extensive research and investigation (there are 100 counties and many more municipalities in the State) which is not possible in the time allowed for response to Mr. Proffer's inquiry, I am unable to advise of the nature of the private group life insurance programs available to the county and city public safety officers. Without such information I cannot form an opinion as to how the remaining questions posed by Mr. Proffer should be answered except to say that in view of the many death and disability programs now available to public safety officers it is my opinion that any federal program should supplement rather than supplant the State and local benefits.

Sincerely yours,

EDWIN S. LANIER. Commissioner of Insurance.

STATE OF NORTH CAROLINA, INSURANCE DEPARTMENT, FIRE AND RESCUE SERVICE DIVISION, Raleigh, N.C., March 2, 1972.

Mr. ISHAM B. HUDSON, Jr., Attorney, North Carolina Department of Insurance, Labor Building, Raleigh, N.C.

DEAR MR. HUDSON: I have read the information mailed us by your office February 25, 1972. As this recommended Bill affects all Public Safety Officers, we have no way of knowing what type of protection is offered each individual city, town or county.

The 1971 Legislature did pass bills which I am enclosing copies of. They are along the same lines; however, I cannot say whether there may be a conflict. I regret my lack of information, however, if we can assist further let us know.

Sincerely yours.

ELWOOD INSCOE, Director, Fire and Rescue Training.

SENATE BILL 87—A BILL TO BE ENTITLED "AN ACT TO CREATE A FIREMEN'S DEATH BENEFIT ACT"

The General Assembly of North Carolina do enact:

Section 1. The General Statutes of North Carolina are hereby amended by inserting therein a new chapter to be designated "Chapter 118A" and to read as follows:

CHAPTER 11A.

FIREMEN'S DEATH BENEFIT ACT

§ 118A-1. Purpose.—In consideration of hazardous public service rendered to the State by firemen, there is hereby provided a system of benefits for dependents who are closely related to such firemen as may be killed in the discharge of their official duties.

§ 118A-2. Definitions.—The following words and phrases, when used in this Chapter, shall have the meanings assigned to them by this section unless the

context clearly indicates another meaning:

(1) The term 'dependent child' shall mean any unmarried child of the deceased fireman, whether natural, adopted, or posthumously born, who was under 18 years of age and dependent upon and receiving his chief support from said fireman at the time of his death:

(2) The term 'dependent parent' shall mean a parent of a fireman, whether natural or adoptive, who was dependent upon and receiving his total and entire support from the fireman at the time of the injury which resulted in his death;

(3) The term 'eligible fireman's or 'fireman' as used in this Chapter shall have

the same definition as set out in G.S. 118-23;

(4) The term 'killed in the line of duty' shall apply to any firemen who is killed

while in the discharge of his official duty or duties;
(5) The term 'widow' shall mean the wife of a fireman who survives him and who was residing with such fireman at the time of and during the six months next preceding the time of injury to such fireman which resulted in his death and who also resided with such fireman from the date of injury up to and at the time of his death.

§ 118A-3. Payments; determination.—When any fireman shall be killed while in the discharge of his official duties, the Industrial Commission shall award the total sum of five thousand dollars (\$5,000.00) as follows:

(1) To the widow of such fireman if there be a surviving widow; or

(2) If there be no widow qualifying under the provisions of this Chapter, then said sum shall be awarded to any surviving dependent child of said fireman; and if there is more than one surviving dependent child, then said sum shall be awarded to and equally divided among all surviving dependent children; or

(3) If there be no widow and no dependent child or children qualifying under the provisions of this Chapter, then the sum shall be awarded to the surviving dependent parent of such fireman; and if there be more than one surviving dependent parent, then said sum shall be awarded to and equally divided between the surviving dependent parents of said fireman.

§ 118A-4. Funds: conclusiveness of award.—Such award of benefits as is provided for by this Chapter shall be paid from the Contingency and Emercency Fund and such amounts as may be required to pay benefits provided for by this

Chapter shall be allocated from said fund for this special purpose.

The Industrial Commission shall have power to make necessary rules and regulations for the administration of the provisions of this Chapter. It shall be vested with power to make all determinations necessary for the administration of this Chapter and all of the decisions and determinatons shall be final and conclusive and not subject to review or reversal except by the Industrial Commission itself. The Industrial Commission shall keep a record of all proceedings conducted under this Chapter and shall have the right to subpoena any person and records which it may deem necessary in making its determinations, and the Industrial Commission shall further have the power to require all persons called as witnesses to testify under oath or affirmation, and any member of the Industrial Commission may administer oaths. If any person shall refuse to comply with any subpoena issued hereunder or to testify with respect to any matter relevant to proceedings conducted under this Chapter, the Superior Court of Wake County, on application of the Industrial Commission, may issue an order requiring such person to comply with the subpoena and to testify; and any failure to obey any such order of the court may be punished by the court as for contempt.

§ 118A-5. Other benefits not affected.—None of the other benefits now provided for eligible firemen or their dependents by the Workmen's Compensation Act or other laws shall be affected by the provisions of this Chapter and the benefits provided for herein shall not be diminished, abated or otherwise affected by

such other provisions of law.

§ 118A-6. Awards exempt from taxes.—Any award made under the provisions of this Chapter shall be exempt from taxation by the State or any political subdivision. The Industrial Commission shall not be responsible for any determination of the validity of any claims against said awards and shall distribute the death benefit awards directly to the dependent or dependents entitled thereto under the provisions of this Chapter.

§ 118A-7. Applicability of article.—The provisions of this Chapter shall also apply and be in full force and effect with respect to any fireman killed in the

discharge of his official duties on or after January 1, 1971."

Sec. 2. This act shall become effective upon ratification.

SENATE BILL 563—AN ACT TO CREATE A RESCUE SQUAD DEATH BENEFIT ACT

The General Assembly of North Carolina enacts:

Section 1. The General Statutes of North Carolina are hereby amended by inserting therein a new chapter to be designated "Chapter 118B" and to read as follows:

"CHAPTER 118B.

"MEMBERS OF A RESCUE SQUAD DEATH BENEFIT ACT

"\$ 118B-1. Purpose.—In consideration of hazardous public service rendered to the State by members of a rescue squad, there is hereby provided a system of benefits for dependents who are closely related to such members of a rescue squad as may be killed in the discharge of their official duties.

"§ 118B-2. Definitions.—The following words and phrases, when used in this Chapter, shall have the meanings assigned to them by this section unless the context clearly indicates another meaning:

(1) "Dependent child" shall mean any unmarried child of the deceased member of a rescue squad, whether natural, adopted or posthumously born, who was under 18 years of age and dependent upon and receiving his chief support from

said member of a rescue squad at the time of his death;

(2) "Dependent parent" shall mean a parent of a member of a rescue squad, whether natural or adoptive, who was dependent upon and receiving his total and entire support from the member of a rescue squad at the time of the injury which resulted in his death;

(3) "Killed in the line of duty" shall apply to any member of a rescue squad

who is killed while in the discharge of his official duty or duties;

(4) "Member or members of a rescue squad" as used in this Chapter shall apply to those persons who are members of a rescue squad which meets the requirements and are members of the N.C. State Association of Rescue Squads, Inc.

- (5) "Widow" shall mean the wife of a member of a rescue squad who survives him and who was residing with such member of a rescue squad at the time of and during the six months next preceding the time of injury to such member of a rescue squad which resulted in his death and who also resided with such member of a rescue squad from the date of injury up to and at the time of his death.
- "\\$ 118B-3. Payments; determination.—When any member of a rescue squad shall be killed while in the discharge of his official duties, or dies as a result of extreme exertion or extreme activity in the course and scope of his activity, the Industrial Commission shall award the total sum of five thousand dollars (\\$5,000) as follows:

(1) To the widow of such member of a rescue squad if there be a surviving

widow; or

(2) If there be no widow qualifying under the provisions of this Chapter, then said sum shall be awarded to any surviving dependent child of said member of a rescue squad; and if there is more than one surviving dependent child, then said sum shall be awarded to and equally divided among all surviving dependent children; or

(3) If there be no widow and no dependent child or children qualifying under the provisions of this Chapter, then the sum shall be awarded to the surviving dependent parent of such member of a rescue squad; and if there be more than one surviving deepndent parent, then said sum shall be awarded to and equally divided between the surviving dependent parents of said member of a rescue squad

"§ 118B-4. Funds; conclusiveness of award.—Such award of benefits as is provided for by this Chapter shall be paid from the Contingency and Emergency Fund and such amounts as may be required to pay benefits provided for by this

Chapter shall be allocated from said fund for this special purpose.

The Industrial Commission shall have power to make necessary rules and regulations for the administration of the provisions of this Chapter. It shall be vested with power to make all determinations necessary for the administration of this Chapter and all of its decisions and determinations shall be final and conclusive and not subject to review or reversal except by the Industrial Commission itself. The Industrial Commission shall keep a record of all proceedings conducted under this Chapter and shall have the right to subpoena any persons and records which it may deem necessary in making its determinations, and the Industrial Commission shall further have the power to require all persons called as witnesses to testify under oath or affirmation, and any member of the Industrial Commission may administer oaths. If any person shall refuse to comply with any subpoena issued hereunder or to testify with respect to any matter relevant to proceedings conducted under this Chapter, the Superior Court of Wake County, on application of the Industrial Commission, may issue an order requiring such person to comply with the subpoena and to testify; and any failure to obey any such order of the court may be punished by the court as for contempt.

"§ 118B-5. Other benefits not affected.—None of the other benefits now provided for eligible members of a rescue squad or their dependents by the Workmen's Compensation Act or other laws shall be affected by the provisions of this Chapter and the benefits provided for herein shall not be diminished, abated or

otherwise affected by such other provisions of law.

"§ 118B-6. Awards exempt from taxes.—Any award made under the provisions of this Chpter shall be exempt from taxation by the State or any political sub-

division. The Industrial Commission shall not be responsible for any determination of the validity of any claims against said awards and shall distribute the death benefit awards directly to the dependent dependents entitled thereto under the provisions of this Chapter.

"§ 118B-7. Applicability of Chapter.—The provisions of this Chapter shall not

apply to eligible firemen as defined in G.S. 118-23."

SEC. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of July, 1971.

H. P. TAYLOR, Jr., President of the Senate. PHILIP P. GODWIN, Speaker of the House of Representatives.

THE LAW ENFORCEMENT OFFICERS' BENEFIT AND RETIREMENT FUND, DIVISION, DEPARTMENT OF STATE AUDITOR, Raleigh, N.C., March 2, 1972.

MR. EDWIN S. LANIER, Commissioner of Insurance, State of North Carolina, Raleigh, N.C.

(Attention: Mr. Isham B. Hudson, Jr., Attorney, Adm. Law & Claims Divison)

DEAR MR. LANIER: With reference to your letter of February 25, 1972, we wish to advise that this Fund provides for survivors of law enforcement officers who are killed accidentally in the actual performance of duty certain benefits not to exceed \$2,100. Specifically, the sum of \$500 is paid to the eligible widow or if no widow survives, to some relative designated by our Board. In addition, the sum of \$200 is paid to each dependent son or daughter, however, the payment to dependents is limited to not more than three. There is also paid to the personal representative of the deceased a partial reimbursement of funeral expenses in the amount of \$1,000.

The Separate Benefit Fund Division of the Law Enforcement Officers' Benefit and Retirement Fund provides for the payment of a death benefit to the designated beneficiary of participating officers. The benefit paid is presently \$5,000, but this amount can conceivably be altered as all payments must be made within

the availability of funds.

All benefits as outlined above are funded by court costs assessed in the criminal courts of North Carolina and no costs whatsoever are borne by the individuals participating. Copies of our Rules and Regulations providing for these benefits are enclosed and if further information should be needed, please feel free to call on us.

Yours very truly,

H. G. McFayden, Executive Secretary.

THE LAW ENFORCEMENT OFFICERS' BENEFIT AND RETIREMENT FUND, Post Office Box 870, Raleigh, N.C.

SEPARATE BENEFITS FUND RULES AND REGULATIONS

SECTION 1. DEFINITIONS

The following words and phrases as used in these Rules and Regulations, unless a different meaning is plainly required by the context, shall have the following meanings:

(1) "Separate Benefit Fund" shall mean the Fund established by Subsection (r) through (w) of G. S. 143, Article 12, Section 166 (Chapter 351, Section Laws

of 1965)

(2) "State" shall mean the State of North Carolina.

(3) "Board" shall mean the Board of Commissioners of the Law Enforce

ment Officers' Benefit and Retirement Fund.

(4) "Officer" shall mean any person who is a sheriff, deputy sheriff, (including those selected by County Commissioners), police officer, state highway patrolman, and any other type law enforcement officer of this State or political subdivision thereof, PROVIDED the Board finds that such person as has been enumerated above has the full power of arrest and his primary duty consists of enforcing on public property the criminal laws of the State, and/or serving civil processes.

(5) "Creditable Service" shall mean service as an officer, as herein described, for which compensation has been paid, including all service rendered as an officer prior to July 1, 1965, provided that to be eligible for prior service credit the

applicant must become a participant prior to July 1, 1966.

(6) "Participant" shall mean the person who has established eligibility for benefits, without regard to whether or not he is a member of the Law Enforcement Officers' Benefit and Retirement Fund, and who has filed an application for participation hereunder with the Board and who has obtained written approval.

(7) "Designated Beneficiary" shall mean that person, or persons, designated

by the participant to receive benefits.

(8) "Benefits" shall mean such benefits as are and may be offered the participants by the Fund.

SECTION 2. PARTICIPATION

(1) Any person, who has not yet reached his fifty-five birthday and who is an officer as herein defined, may become a participant by filing an application on a form furnished by the Board; provided that such person agrees to abide by all decisions of the Board and all Rules and Regulations adopted by the Board. If such application is approved by the Board, then such officer shall continue to be a participant so long as he continues to be an officer, as herein defined, and shall keep the Board advised of any change in employment as an officer. In any case of doubt concerning a person's status as an officer, as herein defined, such person shall, after due notice by the Board, be entitled to file with the Board such information with respect to his status as he may desire.

(2) If a participant retires on or after July 1, 1965, his participation shall be continued provided that such participant has had at least twenty years creditable service, and provided further, that such retirement is a bona fide

retirement from all law enforcement work in the State.

(3) If a participant becomes totally and permanently incapacitated for duty as an officer while in the actual performance of duty at some definite time and place without wilful negligence on his part, his participation shall be continued

so long as such incapacity continues.

- (4) If a participant with ten or more years creditable service retires on account of an ordinary disability, his participation shall be continued so long as such incapacity continues, provided that at least two physicians acceptable to the Board shall, after a medical examination of such participant, certify that the participant is mentally or physically totally incapacitated for further performance of duty; that such disability is likely to be permanent, and that such participant should be retired. Final certification of disability shall be made by the Medical Board serving the Law Enforcement Officers' Benefit and Retirement Fund. However, if a participant with less than ten years creditable service is granted a leave of absence with or without pay by reason of a disability; his participation shall continue for a period not to exceed one year; provided, the statements of two physicians, acceptable to the Medical Board, clearly show that such disability did not exist at time of acceptance of the officer as a participant and that the Medical Board finds such disability merits continued participation for one year.
- (5) If a participant ceases to be an officer for any reason except as provided in subsections (2), (3), or (4) of this Section 2, his participation shall forthwith terminate; provided, however, that upon application, the Board may in its discretion continue participation on an inactive basis for a period not in excess of one year following such cessation of service as an officer, and further provided that no benefit whatsoever shall be due and payable by the Fund during such period as an inactive participant.

(6) The Board shall require such information as it may deem necessary to determine the eligibility or status of any applicant for participation, and the

decision of the Board as to such eligibility or status shall be final.

SECTION 3. BENEFITS

Benefits shall be authorized within the availability of funds as follows:

(1) A lump sum of \$5,000 shall be paid to the designated beneficiary upon the death of a participant prior to retirement, providing that

(a) the officer became a participant within one year after July 1, 1965, and had ten or more years of continuous service as an officer, as herein defined.

(b) if the officer had less than ten years of creditable service, he must have

been a participant for at least six months.

(c) in case of accidental death, eligibility dates from the time of acceptance as a participant notwithstanding limitations set forth in sections (a) and (b) of this subsection.

(d) the officer was in the employ of and was receiving compensation from the

certifying agency at the time of his death.

(2) A lump sum of \$3,000 shall be paid to the designated beneficiary upon the death of a participant after retirement, providing that

(a) the officer has retired from active employment as a law enforcement

officer.

(b) the officer qualified for continued participation as provided for in Section 2,

sub-sections (2), (3), and (4).
(3) Benefits provided for in this section shall be paid only upon written application of the designated beneficiary. The Board shall require the filing of a death certificate and such additional information as may be deemed necessary by the Board. The Board shall determine the eligibility of any person applying to receive such lump sum herein provided and the decision of the Board shall be final and conclusive.

(4) Accident and hospital benefits shall be available in fixed amounts on and after 12:01 A.M., October 1, 1966, as set forth in a group policy approved by the Board with monthly premiums on such policy being paid out of the Separate

Benefit Fund, providing that

(a) the claimant has been accepted and is a participant in the Separate Benefit

Fund at the time of an accident or illness.

(b) in case of accident or illness the prticipant shall file a claim with the insuring company on forms provided by the insurer.

(c) all claims shall be handled between the participant and the insurer.

SECTION 4. ADMINISTRATION

(1) The general administration and the responsibility for the proper operation of the Fund and for making effective the provisions of the law is vested in the Board of Commissioners.

(2) In any situation arising that is not specifically covered by these Rules and Regulations, the basic principles as provided for the in the Rules and Regulations of the Retirement Fund shall be applied to the Separate Benefit Fund. The Rules and Regulations contained herein shall remain in full force and effect until changed by the Board and any decision relating to the interpretation and applications of these Rules and Regulations shall be in the total discretion of the Board.

(The above Rules and Regulations include all amendments adopted by the

Board of Commissioners through August 1, 1970.)

HENRY L. BRIDGES, State Auditor, Ex Officio Chairman of the Board. H. G. McFAYDEN, Executive Secretary.

A RESOLUTION CHANGING THE RULES AND REGULATIONS IN ORDER TO PROVIDE ADDITIONAL BENEFITS TO THE WIDOWS AND CHILDREN OF OFFICERS KILLED IN LINE OF DUTY

Whereas, prior to 1940 and under Chapter 349, Session Laws of 1937, the Commissioners of the Law Enforcement Officers' Benefit and Retirement Fund authorized benefits for the widows and children of officers killed in line of duty with such benefits in keeping within the availability of funds and the economy of that era, and

Whereas, with our fast changing economy, the \$500 for the widow, the \$200 for burial expenses, and \$100 for each dependant child or unborn child, with a maximum benefit of \$1.500, the amounts involved seem so inadequate, and

Whereas, since only \$5,000 has been paid out during the past two fiscal years.

the Actuary approves of an expenditure of at least \$2,100 for each claim, and Whereas, the Board of Commissioners of the Fund feel that, in addition to other death benefits now available, the Fund should adjust the Death in Line of Duty payments up to a more realistic amount.

Now, therefore, be it resolved by the Board of Commissioners of the Law En-

forcement Officers' Benefit and Retirement Fund:

Section 1. That the maximum amount shown under Section 6(2)(a) be increased to \$2,100; the amount under (b) \$1,000; the amount under (c) and (d) \$200 with a maximum of \$600, and (e), the sum of \$500.

Sec. 2. That the increase provided for in this resolution become effective upon

its adoption.

Adopted this the 2nd day of May, 1968 by the Board of Commissioners of the Law Enforcement Officers' Benefit and Retirement Fund at a scheduled meeting with a quorum being present.

HENRY L. BRIDGES. Ex Officio Chairman of the Board.

POLICE EDUCATORS ASSOCIATION OF CALIFORNIA, December 7, 1971.

Hon. JOHN L. McCLELLAN. Senate Office Building. Washington, D.C.

DEAR SENATOR McClellan: The Police Educators Association of California, numbering over 150 from more than half of the colleges and universities in the State want to give our strongest support to your bill to provide benefits to survivors of police officers killed in the line of duty (92 Congress, First Session S2087,

June, 1971).

We do not believe that the bill is adequate compensation for the shock and deprivations involved, nor the sacrifice made by the officer who gives his life in the service of society. We do believe that your bill is a good step in the right direction. We feel that it will encourage better men and women to enter law enforcement, assure a more compatible and happy home life, and recognize an increasing hazard in a critical area of public service.

We want to do all that we can to secure passage of your bill, and we are writ-

ing to all Congressmen from California to that effect.

Sincerely.

WILLIAM H. HOPPER, President, PEAC.

[American Bar Journal, May 1971]

A 1971 London Meeting Special Feature

Criminal Injuries Compensation in Britain

by David Hume Harrison

The Criminal Injuries Compensation Scheme was introduced in England six and a half years ago as an experiment in governmental indemnification of individuals who suffer injuries and loss because of crime. Since the initiation of the plan in 1964, 27,900,000 has been paid out in compensation and more than 8,000 cases a year have been handled.

SIX AND A HALF years ago the Criminal Injuries Compensation Scheme was introduced in England and Scotland as an experimental plan which would stand the test of practical experience but which could be modified later, if necessary, in the light of that experience. More than 25,000 claims have now been disposed of, and 4,100 are under scrutiny by the Criminal Injuries Compensation Board's staff. £7,900,000 has been paid out in compensation, and cases have been dealt with at the rate of over 8,000 a year.

The scheme substantially in its present form was published as a white paper in March, 1964 (Cmnd. 2323). In May, the white paper was debated in both houses of Parliament. On June 24, 1964, the scheme, amended in some respects in the light of the debates, was announced in Parliament. It came into operation on August 1, 1964, and was not retrospective. It has been amended in minor respects in 1965, 1966 and 1969.

How the Scheme

The scheme is administered by a board appointed by the Home Secretary and the Secretary of State for Scotland after consultation with the Lord Chancellor, and the chairman and members are all legally qualified and are all part time. The chairman is Sir Walker Carter, Q.C., the Senior Official Referee of the Supreme Court, and the deputy chairman is Sir Ronald Morison, Q.C., a member of the English and the Scottish Bar, now retired from practice. There are three members of the English Bar, Douglas Lowe, Q.C., Michael Ogden, Q.C., Dennis Barker, Q.C., two English solicitors, Sir Ronald Long, a past president of The Law Society, and W.O. Carter, Vice President of The Law Society, and two members of the Scottish Bar, Robert McDonald, Q.C., and James Law, Q.C. The board's staff, which now numbers seventy, are mainly seconded from the Home Office, except for the secretary and three other lawyers, who are members of the government legal service.

The board is provided with money through a grant in aid from the votes of the Home Office and the Scottish Home and Health Department. Compensation and all administrative expenses, including members' fees and staff salaries, are paid out of the grant in aid. Thus, a realistic estimate can be made of the administrative costs per case.

The board is based in London but may establish offices outside London if the need arises. The need has not yet been felt, first because 90 per cent of all applications are dealt with on the basis of written reports and the attendance of applicants is not required; second, there are obvious advantages in keeping the scheme under central control in its experimental stage.

The scheme also provides that the board will be entirely responsible for deciding what compensation should be paid in individual cases, and their decisions will not be subject to appeal or to ministerial review. R. v. CICB ex parte Lain, (1967) 2 All E. R. 770, an application for an order of certiorari to quash one of the board's decisions, established that the Court of Queen's Bench has jurisdiction to inquire into the board's decisions in order to see whether there is on the face of the record any error in law. The general working of the scheme is kept under review by the Government, and the board are required to submit a report and accounts each year.

Proposed Amendments

late plans for maintaining and increasing membership and give effect to such plans within the limitation of budgets approved for the Committee and the Membership Department. The Committee shall be so organized that the six members, under the Chairman, shall be responsible for membership development and liaison with membership workers in a compact group of states which are as nearly contiguous as possible. Where practicable, vacancies in the Committee shall be filled from among Association members within the area where the vacancy occurs.

(2) The President shall designate one Association member in each state as State Chairman for Membership and said State Chairmen shall be responsible for executing the Membership Committee's approved programs in their respective states.

(3) The Committee may invite the Chairman (or the Co-Chairmen) for Membership of the Young Lawyers Section and the National Chairman for Membership of the Law Student Division

to sit in on any or all of its sessions and, subject to budgetary limitations, reimburse their travel and per diem as if they were members of the Committee.

Notice is hereby given that Edward L. Wright, President; Leon Jaworski, President-Elect; Wm. Reece Smith, Jr., Secretary: Hewen A. Lasseter, Chairman of the Standing Committee on Membership; Hugh N. Clayton, Richard J. Flickinger, S. Shepherd Tate, John C. Shepherd, Herbert H. Anderson, and John C. McNulty, all members of the Standing Committee on Membership; and Edward I. Lack and Alan H. Molod, Co-Chairmen of the Young Lawyers Section Membership Committee; members of the American Bar Association, herewith file with the Secretary of the Association a proposed amendment to the By-Laws of the Association to create a new class of membership to permit foreign attorneys to become members of the Association:

Amend Article I by adding new Section 6 and renumbering the subsequent Sections accordingly:

SECTION 6. International Associates. Those persons who are members of the legal profession of another country, but not members of the bar of any state of the United States, may qualify for election by the Board of Governors as International Associates of the Association. They shall pay an amount equivalent to regular senior dues, but shall not be entitled to vote and shall have no right, title or interest in any of the property of the Association. The rights and privileges of International Associates shall be as defined from time to time by adoption of criteria by the Association's Board of Governors.

Lawyer's Check List of American Bar Center Publications

A selective list of material recently published by the American Bar Association, its Sections and affiliated organizations.

Section Publications

FAMILY Law QUARTERLY, March, 1971 (\$2.00 a copy):
Westman and Cline, Divorce Is a Family Affair
Punke, Restricting Educational Opportunity for Married Youth
Tully, Family Responsibility Laws: An Unwise and Unconsti-

tutional Imposition
Kleinfeld, The Balance of Power Among Injants, Their Parents
and the State, Part III
and the State, Part III
can the State, Part III
Real Thropart, Phopart and Thour Journal, Winter, 1970 (\$3.00

copy):
Estate Planning for the Migratory Executive
Current Status of Truth in Lending Legislation
Estate Distributions to Minors
Lender Liability for Construction Defects
Hauptfuhrer, Probate Practice and Effects on Fees

Conservatorship: Present Practice and Uniform Probate Code Conduit Corporations for Tax and Business Purposes Proposed Legislation on Community Property in Common Law

States

States

Fire Insurance and Repair Clauses in Leases

Natural Resources Law Newsletter, March, 1971 (50¢ a copy):

Committee Publications

LECAL ECONOMICS NEWS, March, 1971 (no charge):
Blackstock, The Cassette Recorder: A Modern Miracle

Law Student Division Publications

THE STUDENT LAWYER JOURNAL, April, 1971 (50¢ a copy): Frakt, Supervising Students in Legal Clinics Outside the Law

School
Del Fullen, Establishing Environmental Law Societies
Caveat, Illinois Students Study Lake Pollution
Hennke, The Peace Symbol: What Is It?
Police and Police Equipment Have Small Effect on Crime

Scope and Basis of Compensation

The board makes ex gratia payments of compensation to applicants who have sustained in England, Wales or Scotland or on a British vessel, aircraft or Hovercraft, personal injury directly attributable to a crime of violence (including arson and poisoning), to the arrest of an offender, the prevention of crime, or to helping the police to make an arrest or prevent an offense. In considering whether any act is criminal, any immunity at law of an offender attributable to his youth or insanity or other condition is left out of account. Traffic offenses and offenses within the family are excluded from the scheme, and if the injury suffered is so light that compensation of less than £50 (\$120) would be awarded, the case is also excluded. It is also a requirement that the circumstances of the injury should have been the subject of criminal proceedings or reported to the police without delay.

Subject to certain exceptions, compensation is based, in injury cases, on common law damages and in fatal cases on the same principles as assessments under the Fatal Accidents Acts 1846-1959, or, in Scotland, under the appropriate Scottish law. Thus, compensation in injury cases is paid both for the pain and suffering, disfigurement and the impairment of the enjoyment or activities of life, and for loss of earnings past and prospective and the out-of-pocket expenses incurred as the result of the injury.

The main exception to the common law basis of assessment of damages relates to social security benefits, which the board are required to take into account in full.

Finally, the board are required to reduce the award or reject the claim altogether if, having regard to the conduct of the victim, including his conduct before and after the incident and his character and way of life, it is inappropriate that he should be granted a full award or any award at all. This reflects the intention that the scheme should provide means of distinguishing the deserving claimant from the undeserving, and its interpretation has pre-

sented the board with great difficulties which, however, are outside the scope of this article.

Suffice it to say that an applicant's conduct is one of the aspects which requires careful scrutiny by the board's staff in the course of preparation of a case for decision by a board member.

Procedure for Determining Applications

The scheme provides that applications shall be made to the board in writing as soon as possible after the event on a form obtainable at the board's office. Having been sifted by the board's staff, the initial decision is made by a single member of the board on the basis of the application form and other documents provided by the applicant and of the reports obtained by the board's staff. The member decides whether the application comes within the scope of the scheme; if so, he may assess compensation and then make some reduction because of the applicant's own conduct. The applicant is notified by the board's staff of the single member's decision, and he may accept it or, if dissatisfied, ask for a hearing before three other members of the board. At the hearing, the case is started afresh and broadly follows the form of a civil action, although it is held in private and is informal.

The scheme confers on the board no special powers to obtain information and gives no directions for the preparation of cases for decision. Thus, the board have been able to evolve their own procedures and modify them when necessary.

One of the board's first tasks was to prepare an application form. In the form, particulars are sought of the applicant himself, the circumstances in which he received his injury and whether it was reported to the police, a description of the injuries and medical treatment, loss of earnings and out-of-pocket expenses and the social security benefits received as a result of the injuries.

The applicant is required to sign an authority for his doctor or dentist or the hospital in which he was treated to provide the board with a report as to his injuries and treatment, for the public departments from which he received social security benefits to give the board information as to those benefits, and for his employers to give the board information as to his earnings and any other relevant matters. At the inception of the scheme the Home Office, on the board's behalf, obtained the agreement of chief officers of police to provide confidential reports at the board's request, together, in each case, with a copy of the applicant's statement, if he made one. Arrangements were also made by the board with the British Medical Association and the Hospital Service for the provision of medical reports and with the public departments concerned to provide details of social security benefits. These arrangements have worked very smoothly, and the board and applicants have every reason to be grateful for the willing co-operation they have received.

New Applications Are Handled by Clerical Staff

New applications and the dispatch of requests for the reports referred to in the preceding paragraphs are dealt with at the board's office by clerical staff, and the case file is held in a central pool until all the reports asked for have been received. The file with the reports attached is then sent to one of the five caseworking sections.

The completed application form is in effect a summary of the applicant's case, and when scrutinized by the caseworking officer in conjunction with the reports it should become apparent whether the application is within the scope of the scheme and, if so, whether there is sufficient information as to the injuries and loss for compensation to be assessed.

It is the duty of the caseworking officer to obtain additional information if there are any gaps or discrepancies between the application form and the reports. If it is not clear whether the application is within the terms of the scheme, it may be necessary to ask the police for copies of witnesses' statements or to bespeak a transcript of the official shorthand note of the assail-

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David Hume Harrison is Secretary of the Criminal Injuries Compensation Board. He was educated at Malvern College. (Worcestershire). After qualifying as a solicitor in 1939, he served in World War II and then joined the government legal service and entered the Treasury Solicitor's Department. He was appointed the board's secretary and solicitor in July, 1964.

ant's trial or, if the case was dealt with summarily, the notes of evidence taken before the magistrates. In other cases, the computation of the applicant's loss of earnings or profits may present a difficulty, and copies of business accounts or tax returns may be required. If the injuries are extensive, additional medical evidence may be required.

In general, it is the caseworking officer's duty to see that all relevant matters are brought to the attention of the board member whether they are in the applicant's favor or to his detriment. Except in simple cases, the work is done at executive level and requires a wide general knowledge, together with a high standard of ability and judgment. About two thirds of all applicants are represented, either by solicitors, trade unions or professional organizations, but the board does not pay the cost of legal representation.

When the inquiries have been completed, the caseworking officer prepares a short summary that, with the application form, reports and any relevant correspondence, is sent to a single member of the board. To ensure an equal division of work among members, cases for submission are collected centrally and then dispatched to members by rotation in batches of ten. Every effort is made to identify and link together at as early a stage as possible cases arising from the same incident, so that the linked cases may all be dealt with by the same member.

If the application is within the scheme, the member makes an assessment of compensation. If he rejects the application or makes a reduced award, he gives his reasons in writing. The case is then returned to the caseworking officer, who notifies the applicant or his representative of the member's decision. If an award is made, a form of receipt is enclosed for the applicant's signature. If no award is made. a statement is enclosed for the applicant's signature to the effect that he accepts the single member's decision. In either case, a form of request for a hearing is enclosed, to be used if the applicant does not wish to accept the decision or considers that the assessment of compensation is not adequate.

Single Member Procedure Has Unusual Features

The single member procedure laid down by the scheme is unusual in a number of respects. First, the single member reaches his decision on the basis of written reports and does not interview the applicant or any witnesses. The only exception is in the case of injuries the effect of which cannot be assessed from written reports or photographs, for example, facial scarring, and the board member may then wish to inspect the scarring before making an assessment. Second, the contents of the reports before the single member are not disclosed to the applicant. Third, unless some new or important factor came to light after the single member's decision, he is functus officio once he has made it, and if the applicant is not satisfied with the decision the only course open for him is to ask for a hearing before three members of the board.

In practice, the procedure works very well. In the year 1969-1970, of the 5,409 applicants to whom single members awarded compensation, 5,287 (97.7 per cent) accepted and 122 (2.3 per cent) were dealt with at hearings. Of the 1,020 applicants whose claims were rejected by single members on their merits, 384 (37.6 per cent) were dealt with at hearings. The over-all result for the year was that 6,817 cases were resolved, 6,093 (89 per cent) by decisions of single members, 600 (9 per cent) by decisions at hearings and 124 (2 per cent) were withdrawn or abandoned. These figures justify the conclusions that the procedure leads to decisions which are acceptable to all but a small minority of applicants.

The procedure is also reasonably expeditious. The time taken to resolve applications depends on a number of factors. One is the availability of staff, and it is inevitable that with a steadily rising number of new applications, delavs should occur from time to time in the board's office because of shortage of trained staff. Other factors are outside the board's control. There may be difficulty or delay in obtaining the necessary reports or answers to correspondence. The alleged offender may be awaiting trial, or the applicant may be undergoing prolonged medical treatment. Nevertheless, 78 per cent of all applications are resolved within six months of their receipt by the board, and half of those are resolved within three months.

The single member procedure also has the advantage of being relatively inexpensive, the average cost per case being about £23 (\$55.20).

Board May Make Interim Awards

The scheme gives the board power to make more than one payment of compensation. Unlike cases before the courts, applications may be ready for decision by a member of the board within a few months of the incident and before a firm medical prognosis of the degree of recovery can be given. In these cases, the board member may make an interim award, particularly in the case of an applicant who is suffering financial loss because his injuries prevent him from working. In serious cases, more than one interim award

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may be made, and two or three years may elapse before compensation is finally assessed.

Hearings Are Held Before Three Board Members

In describing the procedure for determining applications, it was mentioned that if the applicant is dissatisfied with the single member's decision he may ask for a hearing before three other members of the board. The scheme provides that at the hearing the board will reach their decision solely in the light of the evidence given at the hearing, and all information before them will be available to the applicant. This means that the confidential reports on which the single member's decision was based are not used at the hearing. Instead of the police report, it may be necessary to arrange the attendance of a police officer to give evidence as to his inquiries and to produce the originals of any statements he may have taken. As to the medical reports, the usual procedure is to ask the doctor who prepared the report for permission to use it at the hearing and to show it to the applicant. The hearing is held in private, and the board are not bound by the strict rules of evidence. There is no power to compel the attendance of a witness, and if a witness fails to attend, his statement to the police may be read, although it is for the board to decide what weight should be attached to it.

One of the lawyers on the board's permanent staff appears as advocate. His role varies according to the type of case and whether the applicant himself is legally represented. He acts as amicus curiae rather than as a party to the dispute, and he presents all the relevant facts and arguments whether they are favorable or unfavorable to the applicant's case. In some cases, he may challenge the applicant's case by cross-examination. In other cases the evidence he calls and the arguments he puts forward may tend to establish the applicant's case. About half the applicants at hearings appear in person, and the remainder are either legally represented or represented by an official of their trades union. The board

does not pay the costs of an applicant's legal representation.

In the year 1969-1970 the board held hearings on 114 days, thirty-seven in London, forty-four in English provincial cities, thirty in Scotland and three in Wales, and dealt with 600 cases.

Safeguards Are Taken Against Fraud

It was foreseen at an early stage that a compensation scheme would provide opportunities for obtaining public money which some people might not be slow to exploit, either by making a wholly fraudulent claim or by exaggerating the extent of the disabilities suffered as the result of having genuinely been the victim of a crime of violence.

The requirement of the scheme that the circumstances of the injury were the subject of criminal proceedings, or were reported to the police without delay, was intended to be the main safeguard. The board have always attached great importance to this requirement, and although they have discretion to waive it, they do so only in exceptional circumstances, for example, in the case of a young child who could not have been expected to report to the police himself and whose parents failed to do so. Furthermore, the board requires that the applicant should report the full circumstances to the police and be willing to co-operate with them in bringing the assailant to justice. A fear of reprisals or an inability to identify the assailant is not an acceptable reason for failure to report to the police.

It was also expected that the board would be open to fraudulent applications by victims of sexual offenses. The board scrutinizes with particular care all applications in respect of sexual offenses and other offenses arising out of a sexual relationship in order to determine whether there was any responsibility on the part of the victim, and to have regard particularly to any delay that has occurred in submitting the application. This type of case has not, in fact, presented any particular difficulty, except in assessing compensation. The

number of applications by victims of sexual offenses is comparatively small, and in nearly all cases the board's inquiries disclose that the offender was tried and convicted.

A third safeguard was the exclusion of the claim of a victim who was the member of the same family as the offender and who lived with him at the time of the injury, on the assumption that there would be difficulty in establishing the true facts. In practice, the genuineness of the claim is usually established by the trial and conviction of the offender, but the exclusion does remove the risk that the offender, for example, the husband, might derive benefit from the compensation paid to his wife for the injuries he inflicted on her.

Finally, the scheme requires the applicants to give the board all reasonable assistance, particularly in relation to medical reports. This is intended to assist the board to make a full investigation of the extent and origin of the applicant's injuries.

No case has yet come to the board's notice in which compensation was obtained by fraud, and the safeguards therefore appear to be effective. The board is, of course, familiar with applicants who in the application form do not give an entirely truthful description of the incident, who exaggerate their injuries, or attribute to the incident injuries from which they had previously suffered, or who exaggerate their monetary losses. These matters normally come to light in the course of the routine investigations carried out by the board's staff.

Board Gives No Recourse to the Offender

The view is often expressed that while it is right that a victim should receive compensation, the whole cost should not fall on the community at large and the offender should be made at least to contribute to the cost which resulted from his crime. The scheme gives the board no recourse to the offender, either directly or by subrogation. The board takes into account in assessing compensation any damages which the victim may have recovered

British Criminal Injuries Compensation

from his assailant and also any compensation which the victim may have received under an order made by a criminal court. On receiving compensation, a victim is required to undertake to repay the board for any damages, settlement or compensation he may subsequently obtain in respect to his injuries.

It is very seldom that a victim applies to the board after obtaining satisfaction from his assailant in a civil claim for damages. But if he applies because judgment is unsatisfied, any payments already made under the judgment are taken into account in assessing compensation and future payments are repayable to the board in accordance with the undertaking. After receiving compensation from the board, applicants seldom embark on civil proceedings for damages against their assailants, and only an insignificant amount has been repaid to the board.

The criminal courts have power in certain cases to order a convicted offender to pay his victim compensation not exceeding £100 (\$240) for his injuries. These orders are rarely made, but, if made, payments are dealt with as described above.

In the board's experience, assailants seldom appear to possess the means to satisfy a substantial judgment, and any payments would be by small installments over a long period of time involving considerable administrative costs.

Board Makes Efforts To Publicize the Scheme

Before August, 1964, when the scheme came into operation, there appeared to be great public interest in the proposals for a compensation scheme reflected not only in the Parliamentary debates but also in articles in the press. It was surprising, therefore, that in the first months of the board's existence there was a very slow response, and the board had to make considerable efforts to publicize the on those scheme, concentrating branches of the welfare services and those professions which would be likely to come into contact with possible

applicants. The publicity has been renewed from time to time, and public
interest is also maintained by quarterly
press releases that include a selection
of the board's decisions and the annual
report published as a white paper. A
steady increase in public awareness is
shown by the rise in the number of
new applications:

1964-1965	(8 months)	554
1965-1966		2,452
1966-1967		3,312
1967-1968		5,316
19681969		6,437
1969-1970		7.247
1970	(9 months)	6,999

There is no reliable method of forecasting what the ceiling will be or when it will be reached. National crime statistics are of limited guidance because they include crimes for which compensation would be refused, for example, those committed by a member of the victim's family, and exclude crimes for which compensation would be paid, for example, common assaults and cases in which no crime of violence is recorded statistically, e.g., an injury to a police officer in the course of effecting an arrest for a nonviolent crime. Furthermore, it is probable that some victims prefer not to claim compensation, perhaps because they wish to forget about the incident; this seems to apply particularly to victims of sexual offenses. It appears inevitable that so long as the crime rate continues to rise, the board's work will increase.

Staff Has Maintained Analysis of Applications

Since the commencement of the scheme the board's staff have maintained an analysis of applications. After the first three years a pattern began to emerge which has not changed substantially since.

Seventy-seven per cent of all cases come within the following five cate-

Assaults in furtherance of theft
17 per cent
Assaults by strangers in the street
17 per cent
Assaults by relatives, friends
or acquaintances of the victim
16 per cent
Assaults on police officers on duty
14 per cent

Assaults in or in the vicinity of licensed premises or clubs

13 per cent

77 per cent All other cases 23 per cent

Fatal cases (murder and manslaughter) account for between 1 per cent and 2 per cent.

While the board receives a substantial number of applications by police officers, the number of civilians injured when assisting the police has always been very small; for example, in 1969-1970 there were only fifteen cases. However, in the same year 132 civilians were injured in arresting or attempting to arrest an offender or a suspected offender.

The high percentage of assaults by strangers in the street and assaults in the vicinity of licensed premises has led the board to conclude that hooliganism and drunkenness account for at least 30 per cent of their work.

Thirty-six per cent of all applicants were injured in the course of their work:

Police officers
Post Office workers
Public transport workers
Wages clerks and others
concerned with handling

cash 6 per cent Barmen, shopkeepers, watchmen and security guards 12 per cent

36 per cent

In 64 per cent of the cases the incidents in which the applicants received injuries were unconnected with their employment.

As to the offenders, about 70 per cent are charged and convicted, 25 per cent are not traced and the remaining 5 per cent are either charged and found not guilty or not charged, although their identities are known.

Although from time to time the board makes very large awards of compensation, for example, for injuries of maximum severity such as quadruplegia or severe brain damage, the average of all awards is in the region of \$400 (\$960). The distribution of awards of various sizes is as follows:

Ards of various sizes is as billows.

Under £100 29 per cent
£100 to £399 55 per cent
£400 to £999 12 per cent
£1,000 and over 4 per cent
A working party appointed in 1959

by R. A. Butler, then Home Secretary, to examine the practical problems involved in a compensation scheme, suggested that to be acceptable, such a scheme would need to satisfy the following criteria:

 It must be possible to justify it on grounds which do not postulate state liability for the consequences of all crimes, whether against the person or against property.

 It must provide an effective practical means, whether by definition or otherwise, of distinguishing the types of crime for which compensation is to

be paid from those for which it is not.

 It must provide means of distinguishing the deserving claimant from the undeserving or fraudulent which will both be effective in operation and appear manifestly fair.

4. It must not prejudice the work of the criminal courts or the police.

5. It must not have undesirable repercussions on the National Insurance or Industrial Injuries Scheme.

The cost of administration must not be disproportionately high.

The present scheme has to a large degree satisfied these criteria, and unless some fresh criteria are introduced no fundamental changes would be required either in the scope of the scheme or in the basis of assessment of compensation when the scheme in its final form comes to be considered. Further clarification of the second and third criteria would no doubt be helpful, but the percentage of cases in which difficulty arises is very small. The present informal scheme has the advantages of speed, economy and flexibility, and it is to be hoped that these advantages will not be lost when the scheme assumes its final form.

Bar Economics Workshop Planned for Western States

THE COMMITTEE on Economics of Law Practice is holding a Western States Economics Workshop in Seattle on May 15, 1971. William J. Fuchs of Philadelphia, chairman of the Committee, has announced that the purpose of the workshop is "to introduce state bar leaders and economics chairmen to the educational aids the American Bar Association now has available in the field of legal economics and law office management, to promote the use of audiovisual techniques for local economics programs and to engage in a mutual discussion and exchange of ideas as to how the Economics Committee could best help state and local bar groups in the future".

The one-day session will include the showing of two films produced by the Economics Committee, "Romancing Fees into the Twentieth Century" which presents J. Harris Morgan of Greenville, Texas, discussing fees and billing techniques, already has received enthusiastic response from the many bar associations that have used it in their meetings. "Legal Assistants Revisited", a new film, features Lee Turner, Chairman of the Special Committee on Legal Assistants, discussing and illustrating the operation of his law office in Great Bend, Kansas, and the manner in which legal assistants can be utilized to carry out a wide variety of functions with the use of standard procedures and checklists. In introducing these films, the members of the Committee will offer practical suggestions on the development of a successful economics meeting and on the mechanics of presenting audiovisual materials.

This is the first in a series of bar economics workshops the Committee is planning for various sections of the nation. State and local bar presidents, executives and bar economics leaders from thirteen Western states have been invited to attend. Additional information may be obtained from Economics Department, American Bar Association, 1155 East 60th Street, Chicago, Illinois 60637.

Additional Law List Certificates

T HE STANDING Committee on Law Lists of the American Bar Association has issued additional certificates of compliance to publishers for their 1971 editions. These certificates are in addition to those listed in the January, 1971, issue of the Journal (page 71) and are under the heading "State and Local Directories":

CALIFORNIA LEGAL DIRECTORY (with Hawaii section)
ARIZONA LEGAL DIRECTORY
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Los Angeles, California 90024

STAFF STUDY

VICTIMS OF CRIME ACT OF 1972

MARCH 10, 1972



Program and Management Evaluation Division
Office of Operations Support
Law Enforcement Assistance Administration
U. S. Department of Justice
Washington, D. C. 20530

PREFACE

This staff study has been prepared in order to provide statistics and estimates from which a projection of national costs for the full implementation of proposed legislation, S. 2994, Victims of Crime Act of 1972, might experience.

This study is not intended to draw conclusions concerning the program, nor reflect upon policy or position that may be taken in regards to this program.

SUMMARY

This analysis of proposed legislation, S. 2994, Victims of Crime Act of 1972, was made to provide particular estimates and information relevant to the annual costs of a nationwide Victims of Crime Program.

Data was developed upon the basis of experience from inception to date in two states currently operating similar programs. There are seven states that have enacted similar legislation. Of these Maryland and New York provided a more comprehensive experience base, thus, they were used in the projections.

For the purposes of this analysis it was assumed that all states would have legislation enacted. FY 1974 was set as an arbitrary start date in which all states would be operational.

The obvious disparity in violent crimes rates in each state demanded that New York and Maryland projections both be normalized to the national average of 360 violent crimes per 100,000 population before a national projection was made. Using the normalization procedure described in the study it was found that both state's projections into future years resulted in approximately the same estimate of national costs in FY 1976. This satisfied our concern of different growth rates in each state and appears to indicate a stabilization point in that year.

To arrive at start-up costs nationally in FY 1974, the normalized data for New York in FY 1969 was selected as base data for developing first year costs of a national program for all states in FY 1974. To these costs were added the program growth expected to occur in Maryland and New York by FY 1974.

It was also assumed that on a national basis, the program would stabilize in FY 1979. Thus, projected estimates for FY 1974 and FY 1979 are:

	FY 1974	FY 1979
National Costs	\$ 6,490,452	\$ 26,845,000
Federal Share	\$-4,867,839	\$ 20,133,750
Federal Administration Costs	951,043	951,043
TOTAL	\$ 5,818,992	\$ 21,084,793

Comparable data was also developed for costs from inception-to-date for both Maryland and New York.

The analysis further provides estimates of public services officers eligible under Title II, Group Life Insurance for Public Safety Officers, and estimates of retroactive payments to survivors/dependents of public safety officers killed as a result of felonious crimes since 1965.

Accumulative costs through 1971 were estimated as follows for retroactive benefits:

<u>Cumulative Since</u>	Benefits Accumulated
	(Millions)
1965	2.925
1966	6.100
1967	10.425
1968	14.050
1969	18.775
1970	24.150
1971	30.825

· TITLE I

VICTIMS OF VIOLENT CRIMES COMPENSATION

Introduction

Nationally, there are seven states that provide for compensation to victims of crime. The proposed legislation, S. 2994, Victims of Crime Act of 1972, contemplates a federal grant up to 75% of the annual grants paid out and administrative costs (including salaries and expenses) for each state operating such a program. The federal grant, however, would be limited to the extent that the individual state program meets the provisions of the federal plan.

As of 1972, the plans in effect and their general provisions are:

State Ye	ear Enacted	Jurisdiction	Restrictions	Limit Amount
California	1967	State Board of Control	Victim Dependent	\$ 5,000
Hawaii	1967	Criminal Injuries Compensation Commission	Victim Dependent Other	\$ 10,000
Mary land	1968	Criminal Injuries Compensation Board	Victim Dependents Other	\$ 45,000
Massachuset _i ts	1968	District Court	Victim Dependents	\$ 10,000
New York	1966	Crime Victims Compensation Board	Victim Dependents Other	\$ 15,000 Medical Unlimited
Nevada	1969	State Board of Examiners	Victim Dependent Other	\$ 5,000
New Jersey	1971 .	Violent Crimes Compensation Board	Victim Dependent Other	\$ 10,000

Proposed legislation, S. 2994, would establish a Violent Crimes

Compensation Board at the national level. Those people eligible to submit
a claim under the national program include the victim, dependents in case
of death, others where pecuniary loss results from victim's injury, and
anyone suffering pecuniary loss. The federal plan is restricted to \$100
minimum loss plus undue financial hardship and limit on award would be
\$50,000. It further provides for civil remedies to recover from the offender
and allows certain attorney fees. In determination of an award, the behavior
of the victim is considered.

Provisions of the programs in the seven states vary from the federal provisions. On the basis of significant variations several of the states did not provide a representative basis for projections. For example, Nevada does not currently have a general victims of crime program. It is primarily a Good Samaritan Compensation Program, and a "need" requirement of the victim does not enter into awards. While both California and Massachusetts both feature a victims of crime and Good Samaritan provisions, their experience from inception was not considered sufficiently comprehensive for development of national estimates. Hawaii's program provides for awards for pain and suffering which is not included in S. 2994 and was excluded from the base for estimates.

New Jersey was also excluded since it is not operational as of this date. However, cost incurred adjustments for these state plans were made in the estimate of national costs.

Thus, for purposes of this analysis, only New York and Maryland data was used as the basis for developing estimate.

Objective

The objective of this analysis was to obtain an estimate of what the annual national costs and the federal share of these costs for Title I,

Compensation For Victims of Violent Crimes of S. 2994.

Assumptions and Ground Rules

In developing the estimate certain assumptions and ground rules were followed. They are:

- All states and territories would implement Victims of Crime Compensation legislation coextensive with the provisions of S. 2994, Title I.
- 2. First full year of implementation would be Fiscal Year 1974. This year was arbitrarily chosen as a baseline to establish start-up costs and to project annual costs to a stabilization point. This does not infer that full national implementation would occur during this year.
- 3. Estimates of national costs and the federal share would be based upon an "average" state experiencing 360 violent crimes per 100,000 population. This would require adjustments to data from the states selected for this analysis to the average rate of violent crimes per 100,000 population. This adjustment would "normalize" incurred costs and estimated costs to those that might be experienced in the "average" state.

Though resultant data would be representative of national costs, the "average" state is not representative for individual states whose index of violent crimes range from 34.2 (N.D.) to 676.0 (New York) violent crimes per 100,000 population. Individual states, therefore, would apply their ratio of violent crimes to the national index to estimate their costs.

4. Annual incurred costs and estimated future years costs consist of grant awards paid annually and annual administrative costs. Incurred costs include lump sum awards paid annually, and that portion of protracted and death claims paid or estimated to be paid in a given year. Throughout the analysis grant awards identify incurred costs paid that year. "Awards" as identified in some plans is the amount awarded regardless of the year in which it is to be paid. For example, during FY 1971, Maryland awarded \$622,074.41 of which \$120,971.05 was in lump sum payments. The remainder was face value of death and protracted claims to be paid out over a period of years. Total grant awards for that year including lump sums, was \$175,000. This grant award plus administrative costs of \$75,000 totaling \$250,000 is the cost incurred in that year. Costs incurred are considered to be more useful in the projection since they directly influence appropriation requirements. Further, "awards" total do not vest to the individual and may be revised as the economic status of the victim or dependents change.

Incurred Cost Patterns for New York and Maryland

The data provided in these cost patterns reflects actual and estimated costs in terms of grant awards paid annually and administrative costs (salaries and expenses) incurred for each state. The total amount awarded does not appear in these data except to the extent of annual lump sum payments.

A. New York State

The Crimes Victim Compensation Board is in its sixth year of operation. New York has an upper limit of \$15,000 on individual award, however, there is no limitation upon medical costs. Three classifications of claims exist.

- Protracted Disability Claims payable over an extended period of years.
- 2. Death Claims payable over an extended period of years.
- 3. Lump Sum Claims payable in a lump sum in the year of award.

In protracted and death claims, the total award does not vest to the awardee. It may be reopened and adjusted as economic status changes indicate.

Types of crime for which awards may be made include assault (including mugging), murder, stabbings, shootings and rape. Personal injury claims represent 80%, protracted claims 10%, and 10% are death claims.

Incurred costs for the first five years of operation and estimated incurred costs for FY 1972 are provided in Table A. The federal share of these costs without any adjustments for maximum award limit of \$50,000 found in S. 2994 are shown therein.

Per capita costs were computed for New York based upon its incurred costs and federal capita costs based upon the federal share are also provided.

These data do not reflect national costs, only New York costs and expected federal share of these costs. This figure on federal share does not presuppose enactment of retroactive payments under S. 2994.

TABLE A

NEW YORK STATE INCURRED COSTS

	FY '67	FY '68	FY '69	FY '70	FY '71	FY '72 (est).
AWARDS						
Grants	\$ 1,500	\$ 55,665	\$386,585	\$678,000	\$1,243,174	\$1,775,080
Adm. Costs	33,000	199,000	236,000	270,000	328,000	421,064
TOTAL	\$ 34,500	\$254,665	\$622,585	\$948,000	\$1,571,174	\$2,196,144
Federal Share at 75%	\$ 33,375	\$190,998	\$466,938	\$711,000	\$1,178,380	\$1,647,108
PER CAPITA						
New York	\$ 0.0024	\$ 0.0140	\$ 0.0336	\$ 0.0512	\$ 0.0863	\$ 0.1206
Federal -	0.0018	0.0104	0.0256	0.0390	0.0647	0.0904
Administrativ	e Costs Pe	r Claim				
		\$1015.30	\$454.72	\$293.47	\$205.77	\$206.00

The New York plan has a limit of \$15,000 on loss of earnings, but unlimited in medical expenses. The loss of earnings varies from the proposed national program whose limit is \$50,000. Furthermore, the incidence of violent crimes in New York is 1.87 times the national average of 360 violent crimes per 100,000 population. Thus, adjustments were made to the reported New York costs for the national limit of \$50,000 and to reduce the New York costs to that which might be expected in an "average" state experiencing 360 violent crimes per 100,000 population.

The procedure followed in these adjustments were:

1. Adjustment to \$50,000 Limit

It was estimated that the average maximum award would be \$30,000 (as opposed to current limit of \$15,000). It was determined that approximately 18% of all awards made in New York were maximum awards. Therefore, assuming the added maximum award would be spread over 10 years in protracted payments, the \$15,000 difference was annualized at \$1,500 per year. Each years' cost was increased by multiplying the maximum award cases by \$1,500.

2. Adjustment of Violent Crimes Index to an "Average" State With 360 Violent Crimes Per 100,000 Population.

The annual operation costs for New York with adjustments for maximum claims were recomputed on the basis of costs per 100,000 population.

New York's violent crime index in 1970 was 1.87 times that of the national average. The costs per 100,000 population were then normalized to the national "average" (costs per 100,000 divided by 1.87 equals national "average" costs at 360 incidents per 100,000 population).

3. Projection of National and Federal Costs

The adjusted costs per 100,000 reflecting the costs of the "average" crime index were extended for the total population of the United States. This was done by reducing these costs to per capita costs, thence, multiplied by national population.

Accordingly, 75% of these estimated national costs were computed for each year of operation to obtain the federal share. This procedure in effect discounts the New York crime index to the national index. These adjusted data are found in Table B.

TABLE B ADJUSTED

NATIONAL COST AND FEDERAL SHARE BASED UPON NEW YORK

(Millions)

	FY '69		FY '70	FY '71	F	Y '72
National Costs	\$ 4.4	\$	6.22	\$ 10.6	\$	15.3
Per Capita (cents)	(0.0213)	(0.0301)	(0.0514)		(0.0742)
Federal Share	\$ 3.3	\$	4.60	\$ 8.0	\$	11.5

B. Maryland

Maryland has been operating a Criminal Injuries Compensation Board since 1969. It is noted that the Maryland index of Violent Crimes per 100,000 is comparable to that of New York. In 1970 this index was 624.9 versus the New York index of 676.0 violent crimes per 100,000 thus, a normalizing adjustment to the national average was in order. Since the Maryland plan has no limit on awards, an upward adjustment to the national plan was not considered necessary. Published maximum awards of \$45,000 verify this conclusion.

As in New York, Maryland has three classes of awards, protracted, death and lump sums. Types of crimes considered in awards include assault, stabbings, murder, shootings, muggings, manslaughter by automobile, burglary, rape and victim loss as a result of assisting in arrest.

Incurred costs as previously applied for New York were similarly used in the Maryland computations and are found in Table C. Federal share of Maryland costs and state and federal per capita costs are included therein. These data do not reflect a national projection, only Maryland's costs and the expected federal share of these costs. The federal share figure does not presuppose enactment of a retroactive payment under S. 2994.

TABLE C
MARYLAND STATE INCURRED COSTS

	MAKI LAND S		
	FY '70	FY '71	FY '72
AWARDS			
Grants	\$ 65,078	\$ 175,000	\$ 302,112
Administrative Cost	65,151	75,000	115,802
TOTAL	\$130,229	\$ 250,000	\$ 417,914
Federal Share 75%	\$ 97,671	\$ 187,500	\$ 313,435
PER CAPITA			
Maryland	\$ 0.0332	\$ 0.0476	\$ 0.1065
Federal	0.0270	0.0476	0.7980
Administrative Costs	Per Claim		
	\$271.46	\$ 243.50	\$ 204.23

Adjustment to National "Average" of 360 Violent Crimes Per 100,000

Maryland's Violent Crimes index of 624.9 crimes per 100,000 is 1.73 times that of the national "average." The same procedure followed in making the crime index adjustment for New York was followed. Table D that follows extends Maryland's costs into a national cost projection.

TABLE D

NATIONAL COST AND FEDERAL SHARE BASED UPON MARYLAND

 (Millions)

 FY '70
 FY '71
 FY '72

 National Costs
 \$ 3.852
 \$ 7.416
 \$ 12.36

 Federal Share
 \$ 2.889
 \$ 5.562
 \$ 9.27

A comparison of adjusted national costs and federal share for the same fiscal years illustrates that the experience in both plans is approaching commonality in terms of national projections. These data in Table E reflect national projections from each data base.

TABLE E

COMPARISON OF NATIONAL AND FEDERAL COSTS FROM EXPERIENCED

	MARYLAND AND	NEW YORK BASELINES	
	1970	1971 (Millions)	1972 (est).
National Costs			
Maryland	\$ 3.852	\$ 7.416	\$ 12.36
New York	\$ 6.22	\$10.6	\$ 15.3
Federal Share			
Maryland	\$ 2.9	\$ 5.6	\$ 9.27
New York	\$ 4.6	\$ 8.0	\$ 11.5

Projections for future years that follows later will show national projections based upon estimated future costs for each state almost equal each other in FY 1976.

Future Operations

Both Maryland and New York estimate their future years appropriations in the same manner. Annual payments on awarded protracted and death claims from the previous years are carried over as a portion of next year's budget estimate. Additionally, an estimate of new protracted and death claims is made as new busines. Similarly, estimates of lump sum estimates are made. Together, the carryover payments on protracted and death claims, plus estimates of new protracted and death claims and estimated lump sum payments comprise next year's estimate. Administrative costs are similarly estimated and included in the total estimate.

For both Maryland and New York, future year's costs were projected in the manner described above. In both projections a reduction to the national crime index 360 violent crimes per 100,000 was made. For New York only an adjustment was made to approximate costs if a \$50,000 limit existed as opposed to the present \$15,000 limit in New York.

TABLE F

NEW YORK PROJECTION OF NATIONAL COSTS AND FEDERAL SHARE FOR FUTURE YEARS					
	FY '72	FY '73	FY '74	FY '75	FY '76
Claims	2,044	2,494	2,944	3,394	3,844
Awards	775	1,010	1,255	1,522	1,806
Grants	1,775,080	2,294,640	2,860,950	3,478,090	4,131,630
Admin. Costs	421,064	513,764	606,464	699,164	791,864
TOTAL	\$2,196,144	\$2,808,404	\$3,467,414	\$4,177,254	\$4,923,494
ADJUSTMENTS					
With Max. Awards	\$2,403,144	\$3,083,904	\$3,804,914	\$4,585,254	\$5,407,494
National Cost Adjusted for Crime Index		\$20,500,000	\$23,990,000	\$28,500,000	\$34,200,000
Per Capita (cents)	(0.0742)	(0.0995)	(0.1164)	(0.1383)	(0.1660)
Fed. Share	\$11,500,000	\$15,400,000	\$18,100,000	\$21,400,000	\$25,650,000
		TABLE	<u>G</u>		
MARYLAND PROJ	ECTION OF NAT	IONAL COSTS A	ND FEDERAL SH	ARE FOR FUTUR	E YEARS
	FY '72	FY '73	FY '74	FY '75	FY '76
Claims	567	728	1,116	1,431	1,773
Awards (Qty)	120	156	188	223	260
Grants	\$ 302,112	\$ 411,150	\$ 517,812	\$ 650,512	\$ 804,449
Admin. Costs	115,802	149,968	229,896	294,786	365,238
TOTAL	\$ 417,914	\$ 561,118	\$ 747,708	\$ 945,298	\$1,169,687
National Cost Adjusted for Crime Index		\$16,600,000	\$22,147,060	\$27,500,000	\$34,200,000
Per Capita (cents)	(0.0600)	(0.0805)	(0.1075)	(0.1334)	(0.1660)
Fed. Share	\$ 9,270,000	\$12,450,000	\$16,610,295	\$20,625,000	\$25,650,000

As seen in Tables F and G above, the projections from the different state bases indicate identical national costs of \$34.2 million and federal share of \$25.65 million in FY 1976.

Calculations for both states were extended upon indicated growth factors evident in each state's experience. Empirically, it may be stated that Maryland will stabilize in seven years experience versus nine years for New York. Certain benefits of studying other existing plans can well assist a given state in approaching a stabilization of operating costs.

Problems In Making Projections

In both plans evaluated, the major problem indicated was the determination of economic hardship. This determination is a function of hospitalization and medical coverage, eligibility for various welfare benefits, and economic status of the population.

Efforts to define the segment of the population that would reasonably be expected to qualify for a valid claim considering these variable factors were incomplete and inconclusive. A more sophisticated approach, say linear programming, might well develop a model for estimation using these factors:

- a. It was estimated that 20-25 percent of violent crimes resulted in loss of compensation of at least \$100 and medical/hospital cost of \$250, or \$350 total.
- b. The Health Insurance Institute provided some critical data relevant to hospital/medical coverage that might be used to determine how many of the violent crimes that exceeded \$350 may not be covered by insurance.

TYPE INSURANCE	POPULATION COVERED
Hospitalization	181,511,000
Medicare	20,000,000
Surgical	168,961,000
Regular Medical	145,294,000
Major Medical	72,217,000
No Insurance	8,500,000

The extent of coverage under these plans would determine unreimbursed expenses, once a crime was committed and financially accounted for.

c. Welfare Programs

HEW Public Assistance Statistics indicate that there were 14,524,300 recipients of welfare across the nation in October, 1971. Included in this number there were many or all of those persons not covered by medical/hospitalization insurance.

The extensive medical/hospitalization coverage and welfare coverage does not completely eliminate these segments of the population from potential compensation under a Victims of Crime Act. It must be considered that the compensation for victims of crime is determined by the extent of unreimbursed expenses. Thus, the crime and its economic consequences must be compared with the dollar coverage of the various plans.

Similarly, welfare cases cannot be wholly eliminated. The average monthly welfare payment to recipients according to Health, Education and Welfare Public Assistance Statistics for the month of October 1971, was \$108.75. Once again, the economic severity of the crime would determine the extent of unreimbursed expenses.

Also, an individual need not be expected to file a victims of crime petition with a welfare agency. He may choose to only file with the compensation board.

d. Economic Status

The present economic status of individuals in the United States is a consideration in determination of eligibility for welfare and economic ability to secure hospitalization/medical insurance, as well as determining economic need. According to the 1970 census, income segments are as follows:

Income	Population	Percentage
0 - \$ 2,999	16,181,802	8.9
0 - \$ 9,999	92,727,180	51.0
\$ 3,000 - \$ 9,999	76,545,378	42.1
\$10,000 and over	89,272,638	49.1

It is estimated that 97% of violent crimes occur to people whose income is less than \$10,000 per year. Thus, it is assumed that approximately 702,000 violent crimes have occurred to people in this bracket.

e. Case Analysis

Further, development of the estimate of claims for future years cannot be clearly quantified without case per case appraisal evaluating the economic status and unreimbursed expenses.

For this study, claims forecasts for New York was based upon the rate of violent crimes increase in New York and the indicated trend in new claims. When the trend increase in claims equated to a percentage increase over previous years claims match the rate percentage of violent crimes increase for that year, the claims growth was considered to be stabilized.

Maryland posed a different problem since violent crimes increase from 1969-1970 was slight and the program is only in its third year. The claims forecast for Maryland was developed from the trend increase in new awards and the increase in the crime index for murders and aggravated assaults.

It is noted that even though New York was extended on the basis of an increase in crime and Maryland upon awards trends and only murder and aggravated assault growths, national projections for FY 1976 based upon individual states are equal. The national cost for Maryland and New York for that year results in \$34.2 million. The federal share would accordingly be \$25.65 million.

Costs Will Increase

To say that FY '76 represents a leveling off in Maryland and New York is erroneous. It represents a stabilization point from which future transactions are expected to be constant. Each year a new group of violent crimes occur and if the growth has stabilized, it can be assumed that the new awards are constant with previous years. Considerations for a stabilized program are:

Protracted and Death Awards

These awards are paid out over a period of years. They are stabilized when each years new protracted and death awards are equal or nearly equal to last year's awards. In New York, protracted and death awards are paid out in 3-5 years, while in Maryland they may pay out over 10 years. Each year it can be expected that some protracted and death claims will be fully satisfied and drop out. However, until the satisfied claims equal the new claims, there will occur an increase in carry-over costs into the next year, even if the program is stabilized.

Lump Sum Payments

When lump sum payments are stabilized, last year's lump sums will drop out, and this year's lump sums will nearly equal them. While lump sums are increasing annually, they will account for increased costs.

It is concluded that costs will continue to grow until paid up protracted and death awards balance the new awards, and when lump sum awards almost equal the previous year's lump sum awards.

Approaching A Stabilized National Program

It is estimated that Maryland will stabilize in seven years from inception. For New York it is estimated at nine years from inception. Both are expected to stabilize in FY 1976.

Experience to date will assist other states implementing a victims of violent crimes compensation program. It is estimated that five years of operations by new state plans would approach a stabilized national program. If FY 1974 were taken as the first full year of operations, FY 1979 would be the year of national stability.

Estimated start-up costs and stabilized costs for a full national program were developed. Fiscal Year 1969 experience in New York was taken as a reasonable first year base. For this calculation, it was assumed that all states would participate. The adjusted national costs derived from Table B for FY 69 (Adjusted National Costs and Federal Share Based Upon New York) provided the baseline for FY 1974. To this baseline cost, the difference in estimated costs for New York and Maryland for 1974 and Fiscal Year 1969 was added as an adjustment to the estimated costs for FY 1974. This was held necessary to account for growth costs in both states. No adjustment was made for growth costs in Nevada, Massachusetts, California, Hawaii and New Jersey. This election was taken because grant awards and administrative costs in these states (except New Jersey which is not operational) were considerably lower than the "averaged" state costs for FY 1969 developed from normalizing the crime index. Similar considerations were made for FY 1979, the estimated national stabilization year. To these estimates the estimate of federal administration costs were also added.

TABLE H

ESTIMATED START-UP AND STABILIZED COSTS

(Based upon New York FY 1969)

	FY 1974	FY 1979
<u>National</u>	\$ 3,300,000	\$ 23,990,000
	r estimated FY '74 and FY ' of FY '69 Base Year	79
Maryland	66,623	953,000
New York	3,123,829	1,902,000
	\$ 6,490,452	\$ 26,845,000
Federal Share	\$ 4,867,839	\$ 20,133,750
Federal Admir	. Costs _ \$ 951,043	\$ 951,043
TOTA	L \$ 5,818,882	\$ 21,084,793

The staffing pattern for the federal Violent Crimes Compensation Board is found in Table I.

TITLE I

<u>VIOLENT CRIMES COMMISSION BOARD STAFFING</u>

TABLE I

Number of Positions	Position Title	Grades	Total Pay
1	Board Chairman	Level III	\$ 40,000
1	Member	Level IV	38,000
1	Member	Level IV	38,000
1	Executive Secretary	Level V	36,000
5	Staff Personnel	GS-13-15	109,000
1	General Counsel	Level V	36,000
5	Staff Personnel	GS-13-15	109,800
. 1	Director, Hearings, Review and Appeals	GS-15	25,583
10	Staff Personnel	GS-11-13	158,660
10	Expert & Consultant Services (Man years)	5 MY	110,000
36			
	Total Staffing Costs		\$ 701,043
	Administration Costs (estimate)		250,000
	salaries & expenses	TOTAL	\$ 951,043

TABLE J

INDEX OF CRIME BY STATE 1970

(Rate per 100,000)

National Index - 360

State	Crime Index	Ratio
••	005.7	0.00
Alabama	295.7	0.82
Alaska	278.0	0.78
Arizona	370.3	1.02
Arkansas	222.3	0.61
California	474.8	1.31
Colorado	356.7	0.99 0.47
Connecticut	170.4	0.47
Delaware	256.0	1.38
Florida	498.2	0.84
Georgia	304.5 121.8	0.33
Hawaii	123.3	0.35
Idaho	467.9	1.29
Illinois	225.5	0.62
Indi ana	79.3	0.02
Iowa	202.8	0.56
Kansas	202.8	0.61
Kentucky Louisiana	413.5	1.14
Maine	82.8	0.23
Maryland	624.9	1.73
Massachusetts	202.9	0.56
Michigan	562.8	1.56
Minnesota	152.0	0.43
Mississippi	179.3	0.49
Missouri	405.9	1.12
Montana	111.5	0.30
Nebraska	184.1	0.51
Nevada	398.6	1.10
New Hampshire	56.0	0.15
New Jersey	287.1	0.79
New Mexico	292.8	0.81
New York	676.0	1.87
North Carolina	362.5	1.00
North Dakota	34.2	0.09
Ohio	284.3	0.78
Oklahoma	197.8	0.54
Oregon	256.9	0.71
Pennsylvania	212.2	0.58
Rhode Island	204.7	0.56
South Carolina	285.2	0.80
South Dakota	92.5	0.25
Tennessee	274.9	0.76
Texas	361.5	1.00
Utah	137.7	0.39
Vermont	74.0	0.20
Virginia	259.0	0.71
Washington	221.3	0.61
West Virginia	123.7	0.34
Wisconsin	85.8	0.23
Wyoming	113.1	. 0.31

SUBSIDIARY DATA USED IN ANALYSIS AND PROJECTION

EXHIBIT 1

INDEX OF VIOLENT CRIMES

Yr.	Natio	nal % Chg.	Per 100,000	_	ew York % Chg.	Per 100,000	No.	aryland % Chg.	Per 100,000
68	588,83	37	294_6	9.7,134		536.3	23,405		623.0
69	655,06	11.2	324.4	104,398	7.5	569.8	24,295	3.8	645.3
70	731,40	2 11.7	360.0	122,976	17.8	676.0	24,512	.9	624.9

EXHIBIT 2

AVERAGE AWARDS (ANNUALLY)

Type Protracted	New York	Maryland
FY 70	\$3450	\$2520
FY 71	\$3450	\$1625
Death		
FY 70	\$2040	\$1944
FY71	\$2040	\$2400
Lump Sums		
FY 70	\$1930	\$1431
FY 71	\$1930	\$1850

EXHIBIT 3

BREAKDOWN OF AWARDS BY YEAR AWARDED

١	FY Year Award	Year Filed	P	rotracted Denied	Total	Awards	Death Denied	Total
A. N	Maryland							
Ī	FY 69	1969 1970	18 13	31 6	49 19	10 1	11 3	21
Ī	FY 70	1969 1970 1971	6 49 1	4 35 3	10 84 4	1 14 0	1 14 1	2 28 1
B. <u>!</u>	New York							
1	FY 68	1967 1968 1969	10 176 1	9 121 9	19 297 10	7 30 0	6 56 2	13 86 2
,	FY 69	1968 1969 1970	31 290 1	30 345 23	61 635 24	6 49 0	7 73 4	13 122 4

EXHIBIT 4

LIMITATIONS OF AWARDS IN THREE STATE PLANS

		Hawaii	Maryland	New York
1.	Withdrawn	X	х	X
2.	Provocation	х	х	х
3.	No Principal Support	x	х	×
4.	Minimum Requirements not met	x	х	x
5.	No Financial Hardship		х	×
6.	No Crime Committed	×	х	x
7.	Exceeded Statutory Limit	x		×
8.	Failed to Furnish Information	×	x	×
9.	Claimant ineligible		х	x
10.	No Police Report		х	x
11.	Member of Family		x	×
12.	Motor Vehicle	x	x	x
13.	Unable to Locate Claimant			x
14.	Workman's Compensation Pending			x
15.	Claimant Deceased			x
16.	Disability Benefits	•		x
17.	Social Security Benefits			x
18.	Pending Law Suit			х
	Criminal Case			

Note: Limitations are only listed when the investigator experiences them. Limitations could be in affect but have not been experienced.

EXHIBIT 5

UNIQUE PROVISIONS OF AWARDS BY STATES

	Good Samaritan Clause	Limit on Awards	Pain and Suffering
Hawaii	No	10,000	Yes
Maryland	No	None	No
New York	Yes	.No limit on Medical .\$15,000 (Other)	No

EXHIBIT 6

U. S. DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

PUBLIC ASSISTANCE STATISTICS

OCTOBER 1971

(14,524,300 Recipients)

	Aid to Families and Dependents	Old Age Asst.	Perm. & Totally Disabled	Gen'l Assist To	Aid Blind
Recipients	10,421,000	2,026,000	1,043,000	954,000 8	0,300
Average Monthly Payments	51.00	75.45	98.85	65.15	03.95

National Cost:

October 1971 \$ 1,578,895,000 Estimated Annually \$19,000,000,000

Average Monthly Payment Per Recipient \$ 108.75

TITLE II LIFE INSURANCE AND ACCIDENT DISMEMBERMENT

\$. 2994 proposes the establishment of a regular life insurance program for public safety officers. This program may cover part or all of the categories of public safety officers listed below:

Category	Full-Time	Part-Time	Volunteer	Civilian Employees Full-Time	Total
Police	385,000		Section 1	34,259	419,259
Firefighters	200,000	,	1,000,000	. ·· p	1,200,000
Corrections	111,348	1 91	to in	27,506	138,854
Courts				76,491	76,491
Prosecution _				26,194	26,194
TOTAL	696,348		1,000,000	164,450	1,860,798

Age distribution of the various categories of public safety officers could not be obtained pending a statistical count by the Bureau of the Census. However, a recent survey of the average age of New York police officers indicated that the average of a New York officer was 30 years and the average retirement age for police officers was 41 years. Also, from a sample of 128,632 police officers encompassing 720 police departments, it has been determined that 28 of the responding police departments with 13,522 officers have retirement programs after 20 years of service. Another 28 departments with 6,539 officers set the minimum retirement at 25 years. Projecting this on a national level we get a total of 42,361 officers in retirement programs of 20 years and 19,255 officers in the program of 25 years.

This would indicate that approximately 48% of police would fall with the age distribution found below. It is considered that this distribution is atypical of all police, firefighters and corrections officers, and a table was formulated as follows:

	AGE DISTRIBUTION				
	under 30	30-40	40-50		
Police	192,500	96,250	96,250		
Firefighters					
Full-Time	100,000	50,000	50,000		
Volunteer	500,000	250,000	250,000		
Corrections	55, 550	27,775	27,775		
TOTAL	848,050	424,025	424,025		
Less: Volunteer Firefighters	500,000	250,000	250,000		
Total Full-Time Public Safety Officers	348,050	174,025	174,025		

The numbers of police officers enrolled in fully paid or partially paid insurance programs was estimated from a sample survey conducted by the International Conference of Police Associations.

National Police	385,105	
Number in Sample	49,692	
Fully-Paid Plans		
No. Police in Sample	49,692	
No. Police Covered	5,967	
Estimated Nationally	46,212	
Partially Paid Plans		
No. Police in Sample	49,692	
No. Police Covered	34,823 *	
Estimated Nationally	289,535	
Police Covered	264,573	Police Not Covered
Full-Paid	46,212 269 5 73	
Partial	289,535	
TOTAL	-335,747 315,785	49,358 69,320

^{* 32,038} of this total is the New York City Police Department.

The number of individual plans in existence could not be accurately determined. However, using the sample from which police coverage was determined certain assumptions were made. It was assumed that each reporting municipality constituted one group plan.

FULLY PAID PLANS

(Participants)

	Under 1000	1000- 5000	5,000- 10,000	10,000 and Over	Total Plans
<u>Plans</u>					
Sample	17	1	1	1	20
National Est	imate 850	100	33	66	1,049

PARTIALLY PAID PLANS

(Participants)

	Under 1000	1000- 5000	5,000- 10,000	10,000 and Over	Total Plans
Plans					
Sample	1	1	2	1	5
National Estimate	1,666	200	250	2	2,118

_	TOTAL PLANS
Fully Paid	1,049
Partially Paid	2,118

All plans estimated above are considered to be state and local plans exclusive of union plans or beneficial groups.

TITLE III

DEATH BENEFITS AND ACCIDENTAL DISMEMBERMENT FOR PUBLIC SERVICE OFFICERS KILLED IN ACTION OR DISMEMBERED AS A RESULT OF FELONIOUS ACTION

Due to limitations on statistics available on Public Safety Officers killed as a direct result of a criminal act, mamely "felonious action," it was necessary to combine data from several sources.

Only definite identification available pertained to police data compiled and published by FBI in the Uniform Crime Reports. Other data compilations are projected using the Bureau of the Census growth pattern for police and fire protection groups.

Injury rates were developed from statistical tables provided by the Bureau of Labor Statistics (BLS). These data are not defined as specifically related to "felonious action," but rather to "death" and "permanent impairment" categories in the BLS reports and estimated adjustments had to be applied as no official documentation exists. However, the BLS Report No. 389 of Injury Rates of 1969 disclosed that "fire departments had the highest rate -- 48.8 injuries per million employees -- hours worked -- with police departments third at 42.3." "Rising frequency rates are often associated with rising numbers of employees and of new hires, increasing levels of overtime hours, and rapid technological changes.

A. Classes of Public Safety Officers Eligible

Class	Full-Time	Part-Time	Volunteers	Civilians	Totals
Police	385,000			34,259	419,259
Firefighters	200,000		1,000,000		1,200,000
Corrections	(111,348)			27,506	138,894
Federal State Local	7,390 81,870 22,188				
Courts				76,491	76,491
Prosecution				26,194	26,194
Mai shalls	1,381	362		514	2,197
TOTALS	697,729	362	1,000,000	184,964	1,883,055

B. Estimated Dismemberments

No valid information was available in regards to specific dismemberments. However, the occurence of dismemberments is considered to be very low. For purposes of estimating costs arbitrary estimates per year were assigned.

Multiple Dismemberment 1
Single Dismemberment 1

C.	Line of Duty Deaths	1970	1971 (est)
	Police	146	172
	Firefighters	230	230
	Corrections	2 .	2
	Marshalls	N/A	N/A

D. Killed As A Result of Felonious Action

	1970	1971
Police	100	126
Firefighters	3 (est)	3 (est)
Corrections	2 (est)	2 (est)
Marshalls	1 (est)	1 (est)
TOTAL	106	132

E. Benefits of \$50,000 for Felonious Action, Multiple Dismemberment \$50,000, and Single Dismemberment \$25,000

			1971 Itiple		Sing1				
	Deaths	Dismer	nberments	D	ismember	ments	Tot	:al	
	\$ 6,600,000	\$!	50,000		\$ 25,00	0	\$ 6,675	,000	
F.	Retroactive Benef	fits							
		1965	1966	1967	1968	1969	1970 19	971	
	Deaths								
	Police	53	57	76	64	86	100 12	26	
	Firefighters (est	t) 3	. 3	7	5	4	4	4	
	Corrections (est)) 1	1	1	2	2	2	6	
	Marshalls (est)		1	1	-	1	1	1	-
	TOTAL	57	62	85	71	93	107 1	37	
			(Million	s \$)					
	Benefits	1965	1966	1967	1968	1969	1970	1971	Total
	Deaths	2.850	3.1	4.25	3.55	4.65	5.3	6.6	30.300
	Dismemberment								
	Multi	.050	.050	.050	.050	.050	.050	.050	0.350
	Single _	.025	.025	.025	.025	.025	0.25	.025	0.175
	TOTALS	2.925	3.175	4.325	3.625	4.725	5.375	6.675	30.825

U.S. SENATE,

COMMITTEE ON THE JUDICIARY,
SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURES,

Washington, D.C., March 29, 1972.

STAFF SURVEY

During the period December, 1971 through January, 1972, the Subcommittee staff conducted a survey relative to S. 2994, the "Victims of Crime Act of 1972", pursuant to the directive of Chairman McClellan as indicated in his remarks upon introduction of the bill. See *Congressional Record* for December 11, 1971 (daily edition) at p. 21331 which in pertinent part states:

"As Chairman of the Subcommittee, I also intend to give this bill circulation throughout the country over the coming recess with the hope that we can obtain the assistance of those knowledgeable persons outside Congress. We will welcome

their suggestions, too."

The scope of this survey may be outlined as follows:

1. A memorandum and questionnaire relative to Titles II and III of S. 2994 was directed to approximately 500 "public safety officers", representing a cross-section of firemen, policemen, sheriffs and wardens across the country.

2. A memorandum and questionnaire on the Title II insurance aspects of S. 2994 was sent to approximately 100 small, medium and large insurance carriers

currently underwriting group programs in various states.

3. Interested academicians and personnel from established crime compensa-

tion boards were requested to provide their comments on Title I of S. 2994.

4. The State Planning Agencies established pursuant to the requirements of the legislation setting up the Law Enforcement Assistance Administration were asked to consider the subject matter legislation from their particular perspective.

Each of these inquiries and helpful responses thereto are now set forth in

turn.1

U.S. SENATE,

COMMITTEE ON THE JUDICIARY,
SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURES,

Washington, D.C., December 21, 1972.

SPECIMEN LETTER TO "PUBLIC SAFETY OFFICER"

Your comments are invited upon several benefit programs for "public safety officers" which are currently pending before the Subcommittee on Criminal Laws and Procedures. Further direction is provided by the Memorandum and various supporting papers which are enclosed.

It would be most helpful to the Subcommittee if we could receive your response

by January 21, 1972.

Thanking you in advance for your attention and cooperation, I remain, Sincerely yours.

JOHN L. McCLELLAN.

[Memorandum]

"Public Safety Officers" and S. 2994, the "Victims of Crime Act of 1972"

INTRODUCTORY NOTE

On December 11, 1971, Senator John L. McClellan, Chairman of the Subcommittee on Criminal Laws and Procedures of the United States Senate Judiciary Committee, introduced for himself and 16 cosponsors a bill, S. 2994, the "Victims of Crime Act of 1972."

The bill contains five titles, two of which (Titles II and III) would provide substantial benefits for "public safety officers," defined to include policemen, fire fighters and correctional guards.

¹Responses not included herein are on file with the Subcommittee and available upon request. Care was taken to provide that this survey provide a reasonable cross-section of commentary on all aspects of the subject legislation.

TITLE II

Broadly outlined, Title II would establish a Federal-State group life and dismemberment insurance program for State and local "public safety officers." In the first instance, insurance programs would be supported on the State level by the Law Enforcement Assistance Administration established by the Omnibus Crime Control and Safe Streets Act of 1968 (P.L. 90–351). But where commercial insurance was not available at competitive costs and a State failed to establish an adequate program, the Department of Justice itself would be authorized to establish a direct insurance program. Under the direct program, the insurance would be in the amount of an officer's annual salary plus \$2,000 with a minimum coverage of \$10,000 and a maximum coverage of \$32,000.

Under a state insurance program established pursuant to the amended 1968 Act, Federal contributions could range up to 75%, while under the direct Federal program, premiums would be paid by individual participants, but could be

reduced by Federal contributions not to exceed 25%.

TITLE III

Title III of the proposed legislation would establish a Federal maximum death or dismemberment benefit up to \$50,000 for "public safety officers," their families, or their dependents, for death or dismemberment in the line of duty as a result of a criminal offense.

This program would not require individual contributions and would be exclud-

able from gross income for Federal tax purposes.

While the various Titles of S. 2994 are integrated, they are not necessarily interdependent. Thus, it would be possible to process the proposed legislation with significant amendment, while still adhering to its broad outlines.

At this juncture, it appears likely that a refined version of this measure will be

processed by the Congress prior to the close of 1972.

POSSIBLE ALTERNATIVE APPROACHES TO TITLE II

S. 33 introduced by Senator Kennedy, and S. 1946 introduced by Senator Humphrey, are also pending before the Subcommittee on Criminal Laws and Procedures and may be considered as viable alternative approaches to the insurance features of Title II of S. 2994. S. 1946 is somewhat broader in its coverage than S. 33 to the extent that it includes fire fighters within its purview.

The salient differences between these two alternative proposals and the approach of Title II of the "Victims of Crime Act" may be summarized as follows:

1. Title II is, in the first instance, a partially Federally underwritten State run program, while S. 33 and S. 1946 would be a partially Federally underwritten Federal program.

2. Title II would authorize a direct Federal program only where private or State plans were inadequate, while S. 33 and S. 1946 would authorize a Federal

program in all cases.

3. Where a direct Federal program was established under Title II, the Federal share would be up to 25%, while under S. 33 and S. 1946, the Federal share would be up to $33\frac{1}{3}\%$.

4. Title II, in conjunction with the 1968 Crime Control Act, would authorize 75% Federal support of State plans, while S. 33 and S. 1946 would authorize

75% of up to 331/3% of the cost of a State program.

5. S. 33 and S. 1946 would permit officers by units of governments to elect to participate in the Federal or the State program, while Title II contains no election feature.

SCOPE OF INQUIRY

As "public safety officers" within the purview of S. 2994, you and those who serve with you have a vital interest in this proposed legislation. Additionally, your background and experience make you well-qualified to comment upon its scope and implementation. Accordingly, the Subcommittee on Criminal Laws and

¹ Senators Kennedy and Humphrey have indicated their general approval of the principles embodied in the other titles of S. 2994 and the extension of the provisions of Titles II and III, not only to police, but also to fire fighters and correction officers. Senator Humphrey is a co-sponsor of S. 2994 as well as S. 2995 introduced by Senator Kennedy, which is essentially S. 2994 with a substitution of S. 33 for the provisions of Title II, plus their extension to firefighters and correction guards.

Procedures seeks your analysis of, and comments upon, the proposed bill, but in particular Title II and III, as well as the alternative proposals noted above. Attached are copies of S. 2994, Senator McClellan's introductory remarks, S.

33, and S. 1946.

To assist you in your analysis, following are some questions which will face the Congress in the months to come. These questions are not intended to be exhaustive of the problems presented by this proposed legislation, and they should be utilized only to the extent they serve your purposes.

ILLUSTRATIVE QUESTIONS

1. What programs are presently available within your jurisdiction in the way of death and dismemberment programs for "public safety officers" as defined by S. 2994?

2. What costs must be met by those individuals as well as units of government

covered by these programs?

3. How do these insurance costs compare to those incurred by employees other than public safety officers in government and private employment in occupa-

tions at the same income levels?

(Please include here any information available to you to indicate whether or not public safety officers have difficulty obtaining adequate life insurance because of the reluctance of companies to write such insurance or low salaries, have to pay higher rates than other government employers, are excluded from double indemnity coverage, etc.)

4. Should the programs offered by Titles II and III of S. 2994 supplement or

supplant programs currently available to you? Why?

5. Which would you prefer, the two-stage State or Federal program envisioned by Title II of S. 2994 or a direct Federal program or federal subsidy of an existing state or local program as suggested by S. 33 and S. 1946?

Why?

6. Do you see any long-term danger to the independence of local police forces from the establishment of direct Federal salary-type supplements?

Why?

7. Should Congress decide it would be appropriate to enact either Title II (or the alternatives of S. 33 or S. 1946) of Title III, but not both, which would you prefer to see enacted? Why?

8. Should all of those currently covered by the term "public safety officer" be included in the same program? Or would it be advisable to set up separate programs for each separate category of "public safety officer?"

RESPONSES

It would be most helpful if you could provide us with your answers and explanatory comments on these proposals by January 21, 1972. If you have any further questions, please contact Mr. G. Robert Blakey, the Chief Counsel of the Subcommittee at Area Code 202/225–3281.

CITY AND COUNTY OF DENVER,

DEPARTMENT OF POLICE,

Denver, Colo., January 19, 1972.

Senator John L. McClellan, U.S. Senate, Washington, D.C.

Dear Senator McClellan: Thank you for the opportunity to review the benefit programs for "public safety officers" that are pending in your subcommittee.

We gratefully appreciate all constructive efforts directed toward enhancing and improving the difficult role of the law enforcement officer in today's society and respectfully submit the following comments:

1] We wholeheartedly endorse an insurance program that would supplement present benefits to members of our Department by allowing individuals the option to obtain low cost insurance.

2] We strongly oppose a mandatory system that would supplant our pres-

ent system.

3] We recognize the problems faced by members of smaller Departments in securing low cost insurance and feel that an optional program could benefit

all law enforcement personnel regardless of the size of their respective de-

partment or their geographical location in our great nation.

We thank you again for the opportunity to comment, and commend you for your efforts; particularly for remembering in your legislation, the person that was too long ignored, "the victim of crime."

Sincerely,

GEORGE L. SEATON, Chief of Police.

CITY OF LOS ANGELES,
DEPARTMENT OF POLICE,
Los Angeles, Calif., January 25, 1972.

Senator John L. McClellan, U.S. Senate, Committee on the Judiciary, Washington, D.C.

In response to your letter of December 21, 1971, I am enclosing a series of comments on the several bills dealing with benefits for public safety officers which are currently pending before the Subcommittee on Criminal Laws and Procedures. Generally, I approve of the intent embodied in all of the four versions which have been analyzed in the enclosed report.

In the past, it has been difficult for our officers to obtain adequate, low-cost life, accident and dismemberment insurance. I am pleased to note that Congress has recognized the attendant problems in this area and that a satisfactory

solution seems imminent.

J. G. Collins, Assistant Chief, Acting Chief of Police.

ANALYSIS OF S. 2994, S. 2995, S. 33 AND S. 1946

1. S. 2994 calls for the establishment of the insurance program only in states where life insurance was not already available on terms comparable to those made available to other groups. Obviously, this is a fundamental drawback, as it eliminates any opportunity for a federal subsidy or choice of plans in areas such as ours where a group program is already in existence. We prefer the provisions of S. 1946, S. 33 and S. 2995 which provide for a choice of plans, and which allow a subsidy to be applied to group plans already in existence.

2. It appears that none of the proposals are designed to meet the financial needs of public safety officers. In all cases, the coverage offered is minimal, and dependent solely upon the respective officer's salary level. An individual's needs will differ in relation to the number of his dependents, their respective ages, and other similar factors. Accordingly, we would hope that increased coverage would be made available to all public safety officers by means of either one of the

following or a comparable method:

a. By providing the minimum coverage with subsidy, and then by allowing officers to obtain the additional coverage desired with an attendant federal subsidy that would decline in proportion to the respective amount of increased coverage.

b. Alternatively, the minimum coverage with subsidy could be provided, and those officers seeking additional coverage would assume the full non-

subsidized cost of said addition.

3. All four proposals call for termination of coverage "thirty-one days after (1) his separation or release from full-time duty as such an officer, or (2) discontinuance of his pay as such an officer, whichever is earlier." This provision makes no allowance for officers who have been suspended for any appreciable period without pay, or for officers on temporary leave of absence without pay. We feel that an amendment should be added to this section which would exempt officers in these and similar circumstances.

4. We prefer the provisions of S. 2995, and S. 2994 which extend eligibility for coverage to a broad range of public safety personnel. This preference is in

deference to the narrower definitions contained in S. 33 and S. 1946.

5. We presume that all payments made to beneficiaries in monthly installments will include the interest accrued by the insurance company on the total benefit retained by said company during the installment period. All four pro-

posed bills are silent on this point and we are unable to determine if this type of provision must mandatorily be included in all policy contracts throughout the United States.

Presently, our law enforcement personnel have a choice of three group policies available for their participation. Coverage includes: (1) a \$2,000 straight life policy; (2) a 15–30 life, accident and dismemberment policy; and. (3) a 25–50 life, accident and dismemberment policy. All premium payments are paid directly by the individual, at a cost of 60 cents, \$6, or \$9 per month, respectively. Choice of policies is not dependent upon an individual's salary level. It is contemplated that in the immediate future, a 50–100 policy will be made available to our personnel for \$8 per month.

COUNTY OF LOS ANGELES,
OFFICE OF THE SHERIFF,
Los Angeles, Calif., February 16, 1972.

Hon. John L. McClellan, New Senate Office Building, Washington, D.C.

Dear Senator McClellan: I know that I speak for each member of our Department and policemen everywhere in expressing my gratitude to you for your concern with the magnitude of problems confronting law enforcement and the criminal justice system—concern which is evidenced by your introduction into the Senate of S. 2994, the "Victims of Crime Act of 1972." Assistance for the victims of crime and the increasing number of law enforcement officers, firemen, and corrections officers who are killed or injured in the performance of their duties is a responsibility we, as a Nation, must all share.

We have reviewed proposed Senate Bill 2994, in particular Titles II and III, and the alternative proposal, Senate Bill 33. In our analysis of the bill and its alternative proposal, we found Titles II and III to be generally more favorable.

Under Los Angeles County's Group Policy Program, each full-time, permanent safety officer, as so defined and designated within the County of Los Angeles, is automatically covered by \$2,000 of County-paid term life insurance. This amount is paid to the safety officer's beneficiary only in the case of his or her death, whether the death is service or non-service connected. There is no double indemnity coverage in cases of accidental death. Also, in the case of service-connected death, the Workmen's Compensation Laws of the State of California will pay from \$20,000 to \$23,000 to a safety officer's dependents only, depending on the number of dependents. Wherein a safety officer sustains a service-connected permanent disability, Workmen's Compensation will make a settlement based on the type and extent of disability.

As to optional programs currently available to members of the Los Angeles County Sheriff's Department, we have enclosed for your perusal the Los Angeles County Professional Peace Officers Association and Los Angeles County Em-

ployees Association group life insurance program brochures.

Similar group life insurance programs are available and do exist within private employment at relatively the same rates per income levels. According to the New York Life Insurance Company, individual life insurance policies obtained by law enforcement officers through that company and from other private or independent insurance companies pay the same premium rates as those obtained by employees in private industry based on the same or similar age group. However, there is one exception. The rate determined for the double indemnity coverage under such policies is double that rate which is paid by other than law enforcement officers within the same or similar age group.

In reference to Titles II and III of S. 2994, it is our opinion, that if enacted, the program offered by Title II should be supplement those programs currently in existence until such time a comprehensive federally supported program, applicable on a national basis and representative of the needs of all law enforcement officers, can be enacted. Preference for the program offered by Title III is expressed over that of Title II in that a more meaningful and direct compensation can be made where acknowledgement and compensation is relevant and deserving; and further, that it consciously meets the obligation of society

in an appropriate and responsible manner.

The term "public safety officer" as defined in S. 2994 under Titles II and III appears to be broad and vague lending itself to be easily misconstrued. It would be more appropriate to define, more specifically, the term "public safety officer" within the concepts and meaning for which the bill was directed. To include under the same type of program those police officers, firemen, and corrections officers as would be defined under the term "public safety officers" would be reasonable as well as practical.

We believe that this type of legislation is a step in the right direction and meets one of the special needs of law enforcement officers everywhere. We hope

that you and the various committees will consider these comments.

We appreciate the opportunity to review and comment on this proposal and hope this information will be useful to you and the various concerned legislative committees.

Sincerely,

PETER J. PITCHESS, Sheriff. JAMES F. DOWNEY, Acting Sheriff.

INSURANCE PROGRAM Los Angeles County Employees

Sponsored by the

LOS ANGELES COUNTY **BOARD OF SUPERVISORS**

Administered by the **DEPARTMENT OF PERSONNEL**

Health Plans Sponsored by the County

BLUE CROSS BLUE SHIELD

ROSS-LOOS KAISER FOUNDATION

Life Insurance Plans Sponsored by the County

Term Life Insurance (Fireman's Fund American Life Insurance Co.)

Accidental Death & Dismemberment (Hartford Accident & Indemnity Co.)

All permanent, full-time employees of the County are eligible to enroll in any of these voluntary group insurance plans. They may enroll any time within their first 90 days of employment.

Coverage begins on the first of the month after the first payroll deduction is taken. Your Payroll Clerk has the precise schedule.

Your Department has brochures which describe the plans in detail and will be happy to help you enroll in the plan of your choice.

September 1, 1971

COMPARE THE HEALTH PLANS AND CHOOSE THE ONE WHICH SUITS YOU

Under Blue Cross and Blue Shield you select YOUR OWN physician and hospital

BLUE CROSS benefits; Low Option plan has only basic coverage.)

	benefits, Low Option	pran nas on	y basic c	overage.			
MONTHLY PREMIUM	Total Premium High Low Option Option	County Pays	Your . High Option	Payment Lou Option	Total Premium	County Pays \$16.50	Your Payment \$ 3,39
Employees only	\$17.20	\$16.50 15.45	\$.70	None	\$19,89 35,80	16.50	19.30
With one dependent -	35.54 30.01	16.50	19.04	\$13.51	40.30	16.50	23.80
With two or more -	39.87 34.03	16,50	23.37	\$17.53	The Cour	nty contrib	ution may
						-	health plan.
HOSPITAL Room and general nursing care	Up to \$50 per day in a up to 365 days for eaday in intensive care u facility. Up to 60 days or mental disorders or mental diso	ich period o nit; \$25 pe ays hospita	of disabili r day in e	ty; \$100 per xtended care	80% of 3 or r maximum payme to 365 days fo intensive care pai cost above \$50; \$20 per day.	nt) in any lic or each peri id at \$50 per	ensed hospital u od of disability day plus 80% o
Other hospital services	outpatient for surgery injuries within 72 hour	As a bed patient, 80% of charges; 100% of charges as an outpatient for surgery or for treatment of accidental injuries within 72 hours of an accident. Only room and board provided in extended care facilities.					
SURGERY	Scheduled amount up to \$1,400 for surgeon, plus scheduled benefits for assistant surgeon and anesthetist. Payments based on Calif. Medical Ass in in 1964 Relative Value Study (at \$7 unit value). Under High Option Plan only, surgical charges above the scheduled amounts are covered under Major Medical provisions.						
OCTOR VISITS Office calls	High Option Plan only: Provides partial coverage under Major Medical provisions. For surscriber only: Payment of the usual customary or reasonable fee for up to 100 visit per year in home or office, beginning with th						
House calls	High Option Plan only: Provides partial coverage under Major Medical provisions. High Option Plan only: Provides partial coverage under first visit for an injury, the third visit for illness.						
Hospital cálls	\$7 per day. High O charges under Major Me		For subscriber provided in hosp services for up to visit.	oital for non-	surgical physical		
X-RAY AND LABORATORY (Out-patient)	High Option Plan only: Provides partial coverage under Major Medical provisions. All necessary x-rays for subscriber only: Up diagnostic x-ray and c illness.					Up to \$	100 a year fo
MATERNITY	High Option Plan only: Provides \$100 for normal delivery, \$200 for Caesarean section, \$60 for miscarriage. Up to \$50 for hospitalization. Surgical ber for Caesarean deliveries and miscarriage. \$20 services only also may receive \$50 physician services for normal deliveries.						nd miscarriages receive \$50 fo
AMBULANCE	Up to \$25. High Option under Major Medical pr		Covers e	xcess charges	Up to \$25.		
ACCIDENT	Up to \$300 provided in	addition to	o the basic	benefits for			

doctor, hospital, x-ray, lab and registered nurse expenses within 90 days of an accident.

MAJOR MEDICAL COVERAGE

BENEFIT

BLUE CROSS HIGH OPTION PLAN: In addition to basic benefits, Major Medical coverage provides 80% of unreimbursed charges (in excess of \$100 per year deductible for each family member, with \$200 maximum deductible per family) for physician/surgeon services; private duty registered nurse; treatment injured jaw or natural teeth, including replacement; X-ray, radioactive therapy, prescription draws, physical therapy; required x-ray and lab examinations; ambulance to and from hospitals; artificial limbs, eyes, casts, splints, trusses, braces, crutches; rental of wheel chairs, hospital beds, iron lungs, etc.; limited medical services for mental illness.

BLUE SHIELD

California Physicians' Service

COMPARE THE HEALTH PLANS AND CHOOSE THE ONE WHICH SUITS YOU

Under Ross-Loss and Kaiser you use THEIR physicians and hospitals

ROSS LOOS

with major medical coverage

County Pays	Your Payment	
\$16.42	None	
16,50	\$19.40	
16,50	29.08	
	Pays' \$16.42 16.50	Pays Payment \$16.42 None 16.50 \$19.40

The County contribution may

be applied to only one health plan.

Up to \$40 per day in any licensed hospital; \$80 per day in intensive care unit (5 day maximum); \$20 per day in extended care facility. \$4,000 maximum for any one disability. Charges above \$40 per day or the \$4,000 maximum partially provided under Major Medical. Confinement for nervous disorders covered in a general hospital only.

The first \$500 plus 80% of the next \$5,000 of cost as a bed patient (or as an outpatient for emergency treatment of an injury within 24 hours of an accident); charges above the 80% or in excess of the maximum are partially covered under Major Medical provisions.

Ross-Loos physicians provide all surgical services to subscriber without charge; small service fee to dependents (\$25 maximum).

Scheduled amounts up to \$1,000 provided for tests or treatment using radioactive materials

OFFICE: Subscriber no charge, \$1.25 per dependent.

HOUSE: Subscriber no charge, \$5 for dependent.

HOSPITAL: No charge to subscriber or dependent.

No charge to subscribers in Ross-Loss offices, scheduled low rates charged dependents.

Prenatal, delivery and postnatal medical care without charge. No waiting period required. Hospital benefits of \$100 (if pregnancy begins while insured); excess hospital costs partially covered under Major Medical after \$200 deductible.

Up to \$50

Up to \$50 provided for care received within 24 hours of medical Included in hospital benefits, above. emergency for physician services, lab, x-ray and medical supplies

KAISER

(BB Coverage)

Total Premium \$15.67	County County \$15.67	Your Payment None Employees only
31.34	16.50	\$14.84 - With one dependent
44.88	16.50	28.38 - With two or more

Hospital care and all necessary services provided in a Kaiser Foundation hospital provided in a Kaiser Foundation hospital First 125 days no charge. Remaining 240 days in year at one-half the prevailing rate. In case of accidental injury requiring emergency treatment or illness requiring hospitalization more than 30 air miles from home and nearest Kaiser hospital, Kaiser provides up to \$3,000 emergency care

All surgical services provided by Kaiser physicians at no charge

OFFICE: \$2 charge

HOUSE: \$5 charge. No charge for nursing calls at home

HOSPITAL: No charge for physician visits in Kaiser hospitals.

Provided without charge in Kaiser Foundation offices or hospitals

Patient pays \$150 if confinement takes place after ten months of continuous membership; \$350 if earlier. Charge covers all hospital and medical services

Provided if within 30 miles of a Kaiser Foundation hospital, if authorized.

ROSS-LOSS HEALTH PLAN: In addition to basic benefits, Major Medical coverage provides for 80% of the unreimbursed charges (in excess of \$100 per year deductible for each family member—\$200 for pregnancy) for: unreimoursed charges (in excess of Stoo per year deductions of each rathing hemious 2200 to pigealacty) for hospital room and board (\$50 per day maximum) and other hospital services and supplies; administering anesthesia; local ambulance transportation. Also the following supplies and services when ordered by a Ross-Loss physician: private duty registered nurse; blood, plasma, oxygen; casts, trusses, splints, braces, crutches and surgical dressings; drugs and medicines; rental of iron lung, wheel chair, hospital bed and other durable equipment; initial artificial limbs or eyes to replace natural ones lost while insured under this benefit.

LIFE INSURANCE

UNDER THE COUNTY'S GROUP POLICY PROGRAM, EACH FULL-TIME, PERMANENT EMPLOYEE IS AUTOMATICALLY COVERED BY \$2,000 OF COUNTY-PAID TERM LIFE INSURANCE.

IN ADDITION, EACH SUCH EMPLOYEE MAY PURCHASE TERM LIFE INSURANCE THAT IS EITHER EQUAL TO HIS ANNUAL SALARY, OR TO HALF HIS ANNUAL SALARY, OR TO TWICE HIS ANNUAL SALARY.

WHAT ADDITIONAL INSURANCE WILL COST

The following table shows the premiums that employees will pay on policies equal to their annual pay. The value of the policy will be rounded to the thousand-multiple next highest above the annual salary. For example, an employee earning \$608 a month (\$7,296 a year) could take out a policy for \$8,000; if his pay totaled \$6,600, the policy would be for \$7,000; and so on.

PREMIUM PER MONTH - by age groups

Basic Monthly Salary	Amount of Life Insurance	Up to 20	20 10 24	25 to 29	30 to 34	35 to 39	40 to 44	45 to 49	50 to 54	55 to 59	60 to 64	65 86 69
\$ 417 - \$ 500	\$ 6,000	\$0.51	\$0.53	\$0.58	\$0.62	\$0.80	\$1.18	\$1.80	\$2.80	\$4.37	\$ 6.57	\$ 9.95
501 - 583	7,000	0.60	0.62	0.67	0.73	0.93	1.37	2.10	3.26	5.10	7.67	11.61
584 - 666	8,000	0.68	0.71	0.77	0.83	1.06	1.57	2.40	3.73	5.83	8.76	13.26
667 - 750	9,000	0.77	0.80	0.86	0.94	1.20	1.76	2.70	4.19	6.56	9.86	14.92
751 - 833	10,000	0.85	0.89	0.96	1.04	1.33	1.96	3.00	4.66	7.29	10.95	16.58
834 - 916	11,000	0.94	0.98	1.06	1.14	1.46	2.16	3.30	5.13	8.02	12.05	18.24
917 - 1000	12,000	1.02	1.07	1.15	1.25	1.60	2.35	3.60	5.59	8.75	13.14	19.90
1001 - 1083	13,000	1.11	1.16	1.25	1.35	1.73	2.55	3.90	6.06	9.48	14.24	21.55
1084 - 1166	14,000	1.19	1.25	1.34	1.46	1.86	2.74	4.20	6.52	10.21	15.33	23.21
1167 - 1250	15.000	1.28	1.34	1.44	1.56	2.00	2.94	4.50	6.99	10.94	16.43	24.87
1251 - 1333	16,000	1.36	1.42	1.54	1.66	2.13	3.14	4.80	7.46	11.66	17.52	26.53
1334 - 1416	17,000	1.45	1.51	1.63	1.77	2.26	3.33	5.10	7.92	12.39	18.62	28.19
1417 - 1500	18,000	1.53	1.60	1.73	1.87	2.39	3.53	5.40	8.39	13.12	19.71	29.84
1501 - 1583	19,000	1.62	1.69	1.82	1.98	2.53	3.72	5.70	8.85	13.85	20.81	31.50
1584 - 1666	20,000	1.70	1.78	1.92	2.08	2.66	3.92	6.00	9.32	14.58	21.90	33.16

The above table shows premium rates for policies equal to an employee's annual salary. The premiums for a policy equal to half the annual salary would be half the above figures. The premium for a policy equal to twice the annual salary would be twice the above rates.

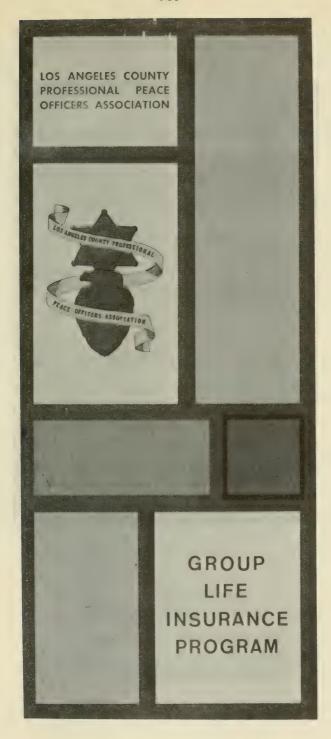
COVERAGE FOR DEPENDENTS

Employees who subscribe to the optional insurance for themselves may also insure their dependents. This coverage is \$1,000 on the life of the spouse and on each child aged six months to 21 years. The premium cost is a flat 50 cents a month, regardless of the number of dependents or their ages.

ACCIDENTAL DEATH

An employee also may insure himself against death or dismemberment from accidental causes. These policies have face values of \$10,000, or \$25,000, or \$50,000, or higher multiples of \$50,000. Maximum coverage is ten times the employee's annual salary. Premium is five cents a month for each \$1,000 coverage.

In addition to his own coverage, an employee may insure his spouse and children for approximately half the value of his policy for an additional two cents a month per \$1,000 coverage.





LOS ANGFLES COUNTY

PROFESSIONAL PEACE OFFICERS ASSOCIATION

TO ALL MEMBERS:

Since July 1, 1965, your Association has had available for its members a life insurance plan second to none in its coverage of law enforcement personnel. The Insurance Committee and our agent, A. E. Myers, together with the carrier, the North American Life and Casualty Company, have worked diligently to make this a program designed both by and for our members.

The selection of North American Life and Casualty Company, which was made on the basis of their financial strength, soundness of operation, flexibility of contract design, and their willingness to adapt to our needs, has proved to be an excellent one. This willingness of the Company to adapt to our needs has resulted in a startling new program which will enable all members of the current Plan II to substantially increase their coverage at an extremely low premium. As the inflationary cycle continues, this becomes of paramount importance to those interested in providing adequate protection for their families.

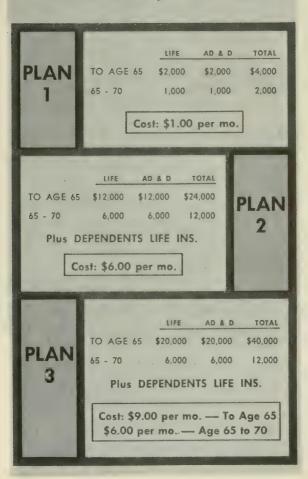
After careful perusal of this new plan, we are sure it will gain your wholehearted support, as it has ours.

BOARD OF DIRECTORS 1968

OF BENEFITS



Choose the plan best suited to fit your needs!!



PLAN DESCRIPTION FOR ASSOCIATION MEMBERS



DEPENDENTS LIFE INSURANCE

Available Only With Plans 2 and 3

f one of your dependents dies, the amount of nsurance indicated in the following schedule will be paid to you as beneficiary.

Spouse \$1,000 Each Child: 6 months to 21 years 1,000 14 days to 6 months 100

NOTE: Any dependent who is in full-time military service will not be covered by this insurance. The insurance on such dependent will terminate on the date of his entry into the armed forces.

WHO MAY BE INSURED?

New members of the Association may apply without submitting evidence of insurability, provided [1] they become members in the Association within 60 days of the date they were first eligible to apply for membership and [2] they apply for the insurance within 31 days of date of membership in the Association.

All other members who have not applied during the above period must submit satisfactory evidence of insurability with their application for insurance. In the case of late application for Plan 2 or Plan 3 all dependents must provide satisfactory evidence of insurability.

WAIVER OF PREMIUM

If you become totally and permanently disabled while covered by the plan and before reaching age 60, your life insurance will stay in effect for as long as you remain disabled while the Master Policy is in effect. You will be required to submit proof of disability each year.

LIFE INSURANCE

You are insured for \$2,000, \$12,000 or \$20,000 (Depending upon which plan you choose) which is payable in full to your beneficiary in the event of your death from any cause on or off the job. NOTE: Suicide is excluded for the first two years

of coverage.

ACCIDENTAL DEATH AND DISMEMBERMENT

Accidental Death

You are insured for the principle sum of \$2,000, \$12,000 or \$20,000 (Depending upon which plan you choose) in the event of your accidental death on or off the job.

This benefit is in addition to the amount that will be paid under your life insurance.

Accidental Dismemberment

If you accidentally suffer the loss of both hands, or both feet, or the sight of both eyes within ninety days of the accident, you will be paid the principal sum. If you accidentally suffer the loss of one hand or one foot or the sight of one eye within ninety days of the accident, you will receive 1/2 the principal sum.

Exclusions

Accidental Death and Dismemberment Benefits are not payable for (1) self-inflicted injury or suicide; or (2) bacterial infections or (3) bodily or mental infirmity; or (4) the commission of or the attempt to commit an assault or felony; or (5) war, whether declared or undeclared; or (6) during military service; or (7) riot, except while acting in an official capacity.

BENEFICIARY

You may name anyone you wish as your beneficiary and you may change your beneficiary at any time by filling out the proper form. Please contact your Association Office for details.

QUESTIONS AND

WHEN WILL MY LIFE INSURANCE BE EFFECTIVE?

IS ANY MEDICAL EXAMINATION REQUIRED?

MAY I CONTINUE COVERAGE AFTER MY RETIREMENT?

IS DEATH FROM ANY CAUSE COVERED?

TERMINATION OF INSURANCE

Your insurance will terminate when:

- (1) you discontinue premium payments.
- (2) you terminate employment with the County of Los Angeles, except as a retiree.
- (3) you terminate your membership in the Los Angeles County Pro. Peace Off. Assn.
- (4) you attain age 70.
- (5) the Master Policy is terminated for the entire group.

NOTE: Dependents' coverage will terminate when your insurance terminates or they become otherwise ineligible.

ANSWERS



On the first of the month following the date your application is approved by the company, provided you are actively at work on that date. Otherwise, your insurance will become effective on the date you return to active full-time employment.

No, providing you take advantage of this protection as outlined in the "Who May Be Insured" section of this brochure.

Yes, your coverage may be continued beyond retirement to age 70. The premium will be on the same basis as for active members.

Yes—if you die from any cause anywhere in the world, your life insurance will be paid in full to your beneficiary. Please refer to your certificate for Accidental Death and Dismemberment provisions.

NOTE: Suicide is excluded for the first two years in the Life program.

IN THE EVENT OF A CLAIM . . .

All claims should be reported immediately to:

LOS ANGELES COUNTY PROFESSIONAL PEACE OFFICERS ASSOCIATION 701 SO. ATLANTIC BLVD., SUITE 203 MONTEREY PARK, CALIFORNIA 91754

The necessary forms will then be immediately provided.

FOR INFORMATION CALL 289-4311



KEEP THIS BOOKLET

This booklet should be retained by you as it gives a good description of your plan in general terms. It is not a contract but rather it gives you the highlights, not the details of the plan. The complete terms and conditions covering your insurance will be found in the group insurance policy which has been issued to the Association by North American Life and Casualty Company and is on file at the Association office.

PLAN ARRANGED BY

MYERS-STEVENS & CO., INC.

Group Insurance Consultants
San Francisco - Anaheim

155 MONTGOMERY STREET - SAN FRANCISCO Telephone 415-362-3030

and

421 NO. BROOKHURST - ANAHEIM Telephone 714-635-1520

Underwritten by

NORTH AMERICAN
Life and Casualty Company



GROUP LIFE/AD & D INSURANCE PROGRAM

for
LOS ANGELES
COUNTY
EMPLOYEES

Sponsored by the LOS ANGELES COUNTY BOARD OF SUPERVISORS



Administered by the DEPARTMENT OF PERSONNEL

Certificate of Insurance

If you are designated as a "permanent" and "full-time" employee on the Los Angeles County payroll records, your life is insured for

\$2,00000

at no cost to you under the Los Angeles County Group Term Life Insurance program as described in this booklet.

If you enroll for the
Optional Group Term Life
Insurance or the Optional
Accidental Death &
Dismemberment Insurance,
or both, as described in
this booklet, you will receive
evidence and verification of your
insurance coverage from the
Insurance Company.

This is a Valuable Document Keep it in a Safe Place

774

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Enrollment Instructions for the Optional	
Insurance Plans 17 &	inside
back	cover

NOTE: The enrollment card is fastened between page 17 and the back cover.

INTRODUCTION

LOS ANGELES COUNTY sponsored

GROUP LIFE INSURANCE PROGRAM

for County Employees and their Dependents

As approved by the Los Angeles County Board of Supervisors on August 27, 1968.

To provide the flexibility necessary to satisfy the group life insurance needs of most families, the Group Life Insurance Program is designed to provide basic protection for all eligible employees plus optional, additional life and accidental death and dismemberment insurance for employees and their dependents.

THE PROGRAM PROVIDES:

1. COUNTY PAID LIFE INSURANCE

\$2,000 free group term life insurance for all permanent, full-time County employees.

OPTIONAL ADDITIONAL INSURANCE AT LOW COST GROUP RATES

Additional Group Term Life Insurance in amounts of:

½ annual salary, or equal to annual salary, or 2 times annual salary

plus Group Term Insurance for dependents.

Accidental Death & Dismemberment Insurance for employees and their dependents, in varying amounts, up to ten times annual salary.

The Program is described in this booklet; if you have any questions after reading it, please contact your departmental payroll or personnel office representative.

The enrollment card for the Optional Insurance Plans is fastened in the back of this booklet. Instructions for enrollment are on the last two pages of the booklet.

COUNTY-PAID . . . GROUP TERM LIFE INSURANCE

AMOUNT OF INSURANCE

\$2,000 - for all eligible employees.

Payable upon death from any cause, at any time, on or off the job.

ELIGIBLE EMPLOYEES

All employees designated as "permanent" and "full-time" on the Los Angeles County payroll records are automatically eligible for this life insurance.

NO COST TO EMPLOYEES

The County pays the full cost of this life insurance for employees.

ENROLLMENT

No enrollment is necessary for this coverage. Eligible employees are automatically insured on their effective date.

(Enrollment IS necessary for the optional insurance plans described further on in this booklet.)

EFFECTIVE DATE OF INSURANCE

The effective date of this insurance is September 1, 1968, for employees who were eligible as of August 31, 1968.

The effective date for employees who become eligible after August 31, 1968, will be the first of the month following the date they become eligible as a permanent full-time employee. If they become eligible on the first of the month, their insurance will be effective on that date.

Note: If an employee is not actively at work on the day the insurance would ordinarily have become effective, it will not become effective until the employee returns to permanent full-time work.

NO MEDICAL EXAMINATION

A medical examination is not required for this insurance.

OPTIONAL GROUP TERM LIFE INSURANCE

for employees and their dependents

Payable upon death from any cause, at any time, on or off the job.

All employees designated as "permanent" and "full-time" on the Los Angeles County payroll records may enroll for additional low cost Group Term Life Insurance in any one of the following optional plans, either with or without dependent's coverage.

YOU MAY CHOOSE ONLY ONE OF PLANS A THROUGH F

L.A. County Payroll Deduction **PLANS** Code shown on your pay stub $A - \frac{1}{2}$ of your adjusted annual salary 11 $B - \frac{1}{2}$ of your adjusted annual salary, 12 plus dependent's life insurance C - Equal to your adjusted annual 13 salary D - Equal to your adjusted annual 14 salary plus dependent's life insurance E – 2 times your adjusted annual 15 salary F - 2 times your adjusted annual 16 salary plus dependent's life insurance

DEPENDENT'S LIFE INSURANCE

If you choose dependent's coverage with your own life insurance (Plans B, D, & F above), your dependents will be insured for the following amounts:

Your Spouse	\$1,000
Your Children	
age 6 months to 21 years	\$1,000
age 14 days to 6 months	. 100

NOTE: Employees must enroll for insurance on themselves to obtain dependent's insurance.

HOW TO CALCULATE YOUR AMOUNT OF INSURANCE

First: Calculate your annual salary by multiplying your monthly base rate (before deductions) by 12.

Round up to the next higher \$1,000\$

This is your "adjusted" annual salary and will be used to determine your amount of insurance and your monthly cost.

AMOUNT OF YOUR INSURANCE UNDER THE DIFFERENT PLANS

	AMOUNT OF
PLANS	INSURANCE
A or B — Divide your adjusted annua salary by 2	\$
C or D — Enter your adjusted annual salary	
E or F — Multiply your adjusted annua salary by 2	
For example:	
If your monthly base rate is \$575	
multiply \$575 by 12 to obtain annual salary	\$ 6,900
As this does not come out in an ev dollar amount, round up to next high	
\$,1000 =	\$ 7,000
\$7,000 would be your adjusted annua	al salary and

	AMOUNT OF
PLANS	INSURANCE
A or B — Divide adjusted annual salar	y
by 2	\$ 3,500
${\sf C}$ or ${\sf D}$ — Enter adjusted annual sala	ry\$ 7,000
E or F — Multiply adjusted annual sala	ary

the figure to be used in calculating your amounts of insurance under the various plans, as follows:

Note: If your annual salary comes out to an even thousand dollar amount, don't round up, use the actual resulting annual salary to determine the amount and cost of your insurance.

YOUR COST

Your monthly cost for this optional Group Term Life Insurance is very low due to the economic advantage of group purchasing power. You would find it difficult, if not impossible to purchase this type of coverage from any other source at these low premium rates.

MONTHLY COST FOR EMPLOYEE COVERAGE

Your monthly payroll deduction per thousand dollars of insurance is based on your age as shown in the following table.

Employee's Age	Monthly Cost per \$1,000 Insurance
Under 20	8.5¢
20 - 24	8.9¢
25 - 29	9.6¢
30 - 34	10.4¢
35 - 39	13.3¢
40 - 44	19.6¢
45 - 49	30.0¢
50 - 54	46.6¢
55 - 59	72.9¢
60 - 64	\$1.095
65 - 69	\$1.658

MONTHLY COST FOR DEPENDENT'S COVERAGE

If you add life insurance for your dependents to your own insurance the cost to you is an additional 50¢ per month, no matter how many eligible dependents you may have.

HOW TO CALCULATE YOUR MONTHLY COST

To calculate your monthly cost for your insurance coverage, simply multiply the number of thousands of dollars of insurance by the premium rate for your age group from the table on page 7.

For Example

Assume you have an adjusted annual salary of \$7,000 (\$575 per month) and you are 32 years old, your monthly cost would be as follows:

Monthly cost for each \$1,000 of insurance at age 32 ± 10.4 ¢ (from table on page 7)

Plan	Amount of Insurance	Monthly Cost (Payroll Calculation Deduction)
Α	\$3,500	3.5 imes 10.4¢ $=$
		36.4¢ or36¢
В	same	add 50¢ for dependent's coverage =86¢
С	\$7,000	$7 \times 10.4 \c =$ 72.8¢ or73¢
D	same	add 50¢ for dependent's coverage =\$1.23
E	\$14,000	14 × 10.4¢ = \$1.456 or\$1.46
F	same	add 50¢ for dependent's coverage =\$1.96

Thus with a salary of \$575, you could have as much as \$14,000 of Life Insurance on yourself, plus coverage on your dependents as outlined on page 5, for less than \$2.00 per month.

OPTIONAL ACCIDENTAL DEATH & DISMEMBERMENT INSURANCE

This insurance provides coverage 24 hours a day, travelling or at home, on or off the job, for death or dismemberment resulting from accidental causes.

All permanent, full-time employees may enroll for this additional insurance protection in amounts up to ten times the employee's annual salary.

Dependents may also be insured for the amounts shown opposite the employee's coverage in the table below.

You may choose either Plan G or Plan H.

PLAN G — Employee coverage only

PLAN H - Employee and dependent coverage

After you have chosen a plan, select the amount of insurance coverage you want from the Schedule of Amounts table, below.

You may select any one of the scheduled amounts, 1 through 7, provided your coverage does not exceed ten times your annual salary; except, if ten times your annual salary falls between two amounts, you may select the higher amount.

SCHEDULE OF AMOUNTS

	Fr	nployee	Dependent Coverage						
Coverage			Without Children	With Children					
		Jverage	Spouse	Spouse	Each Child				
	1.	\$ 10,000	\$ 5,000	\$ 4,000	\$ 500				
	2.	25,000	12,500	10,000	1,250				
	3.	50,000	25,000	20,000	2,500				
	4.	100,000	50,000	40,000	5,000				
	5.	150,000	75,000	60,000	5,000				
	6.	200,000	100,000	80.000	5,000				

Annual salary as used to determine your maximum amount under this plan is your "adjusted" annual salary. This is your annual salary rounded up to the next higher \$1,000, as shown on the top of page 6.

100.000

5.000

125,000

7.

250,000

YOUR COST FOR THIS INSURANCE

Your monthly cost for the Accidental Death & Dismemberment Insurance is:

- Plan G EMPLOYEE COVERAGE ONLY
 5¢ for each \$1,000 of employee coverage.
- Plan H EMPLOYEE AND DEPENDENT COVERAGE

7¢ for each \$1,000 of employee coverage.

The following table shows the cost per month for each scheduled amount under both Plan G and Plan H.

Amount of	Total Cost per Month				
Employee Coverage	Plan G	Plan H			
\$ 10,000	\$.50	\$.70			
25,000	1.25	1.75			
50,000	2.50	3.50			
100,000	5.00	7.00			
150,000	7.50	10.50			
200,000	10.00	14.00			
250,000	12.50	17.50			

EXAMPLE:

Assume your "adjusted" annual salary is \$7,000. Ten times \$7,000 equals \$70,000... as this amount falls between two of the scheduled amounts of employee coverage; \$50,000 and \$100,000, you may select the higher amount if you wish.

If you choose \$100,000, your monthly cost would be:

			ourself only -
$100 \times$	5¢ equals		\$5.00
for Plan	H - covera	age on you	rself and your
depende			
100 ×	7¢ equals		\$7.00

The above cost figures for Accidental Death & Dismemberment Insurance apply regardless of your age or the number of dependents you have.

BENEFITS FOR ACCIDENTAL DEATH AND DISMEMBERMENT

If an accidental injury results, directly and independently of all other causes, in any of the following losses within 365 days of the accident, the Company will pay as follows:

Loss of Life......The Principal Sum Loss of two or more members...The Principal Sum Loss of one member...One-Half The Principal Sum

"Member" means hand, foot or eye. "Loss" means, with regard to hand or foot, actual severance through or above the wrist or ankle joints; with regard to eye, entire and irrecoverable loss of sight.

EXCLUSIONS

No coverage is provided for loss or disability due to:

- Bodily or mental infirmity, or disease, except a pyogenic infection attributable to and occurring as the proximate result of an injury not excluded under the policy;
- Medical or surgical treatment, except a loss covered by the policy which results from a surgical operation made necessary solely by the injury and performed within 365 days after the date of such injury;
- 3. Suicide, self-inflicted injury;
- War or any act of war (whether war is declared or not);
- Flying in an aircraft except as a passenger (and not as a pilot or crew member) in any previously tried, tested and approved aircraft;

This exclusion will not apply to the first \$100,000 of coverage on any individual who is a properly certified and licensed pilot while he is acting as a pilot or member of a crew on any previously tried, tested and approved aircraft.

GENERAL PROVISIONS WHO MAY ENROLL FOR THE OPTIONAL INSURANCE PLANS

Employees

All permanent full-time employees of the County are eligible to enroll.

Dependents

Eligible dependents are: an insured employee's spouse and unmarried children, including legally adopted children wholly dependent upon the employee for support. Children must be at least 14 days of age but under 21 years. Dependents in full-time military, naval or air service are not eligible.

AUTOMATIC BENEFICIARY DESIGNATION

Your insurance benefit will be paid to:

1. Your surviving spouse, or

- If no surviving spouse, the benefit will be paid to your surviving children, including legally adopted children, or
- If no surviving children, to your surviving parents, or
- 4. If no surviving parents, to your estate.

If more than one person becomes entitled to benefits, they will share equally.

This is an automatic beneficiary designation, with no action necessary on your part. However, if you wish a different beneficiary designation than the Automatic Beneficiary Designation, you must complete the Special Beneficiary Designation section on the reverse side of the enrollment card.

Note: Your dependent's insurance benefit will be paid to you as beneficiary, if you have enrolled for dependent's coverage.

INSURANCE WHILE ON LEAVE OF ABSENCE

Your insurance will remain in force if you are on a County approved and authorized leave of absence, but not to exceed 3 years, subject to your making the necessary arrangements to continue premium payments for your optional coverages.

You must contact the Insurance Section of the Department of Personnel, prior to going on leave, to make these arrangements. Non-payment of premiums will result in cancellation of your optional coverage, and it is not automatically reinstated upon your return to active service. You must re-apply for coverage if your insurance is cancelled.

ENROLLMENT PERIOD FOR OPTIONAL PLANS

You may enroll for either the Optional Group Term Life Insurance or the Accidental Death & Dismemberment Insurance, or both, without a medical examination, if you do so within 90 days after you first become eligible as a permanent full-time employee.

If you do not enroll within this period, you may still enroll, but the insurance company will require you to furnish satisfactory evidence of your own and your dependents' insurability, at your own expense, before your enrollment can be accepted.

HOW TO ENROLL IN THE OPTIONAL INSURANCE PLANS

- Complete the enrollment card attached between page 17 and the back cover of this booklet. Be sure to complete and sign the reverse side of the card.
- Complete the enclosed Payroll Deduction Authorization card for the insurance coverage you desire; complete both cards if you enroll for both the optional Group Term Life Insurance and the Accidental Death & Dismemberment Insurance.
- 3. Return the completed cards to your Departmental Payroll or Personnel Office representative.

CONTRACTOR AND ACCORDANCE OF THE STATE OF TH

If you get married, you may enroll your new spouse for dependent coverage without a medical examination by submitting new enrollment and payroll deduction authorization cards within 90 days of the date of marriage,

Please write the date of marriage in the lower left hand corner of the enrollment card.

NOTE: Once your dependent coverage is in force, all new eligible dependents are automatically included.

SCHEDULE OF PAYROLL DEDUCTIONS

Payroll deductions for your optional insurance will be made from your paycheck on the 10th of each month, to pay for insurance coverage the following month.

Your Payroll Officer has a schedule that shows when your payroll deductions should begin.

IMPORTANT -

Check your paycheck stub to make sure your premium deductions begin on time and that the amount is correct. If the deductions do not begin on time or you find an error, please contact your payroll office at once.

In any event, to be sure your insurance remains in force, you should check your paycheck stub each month to make sure the premiums are deducted.

EFFECTIVE DATE OF OPTIONAL INSURANCE

Your optional insurance will become effective on the first of the month following your first payroll deduction.

NOTE: If you are not actively at work on the date your insurance would ordinarily have become effective, it will not become effective until you return to permanent full-time work. This provision applies to both the County-paid plan and the optional plans.

YOUR EVILLINGE OF INSURMOR

If you enroll for any of the optional insurance plans, you will receive evidence and verification of your insurance coverage from the insurance company. This is an important document and should be kept in a safe place.

INSURANCE DURING TOTAL DISABILITY

If you become totally disabled before age 65, your insurance under the Optional Group Term Life Insurance will be extended during continuance of disability until your 65th birthday without further payment of premium. You will be required to furnish satisfactory proof of disability from time to time. This provision does not apply to the Accidental Death & Dismemberment Insurance.

CHANGES IN AMOUNTS OF OPTIONAL INSURANCE

You may change to a plan providing less insurance by completing new enrollment and payroll deduction authorization cards.

You may change to a plan providing greater insurance by providing evidence of your insurability, at your own expense, satisfactory to the insurance company and completing new enrollment and payroll deduction authorization cards.

In either event, after approval, the change in insurance will take place on the first of the month after the payroll deduction changes are made.

CHANGE IN SALARY

If a change in salary results in your being eligible for a different amount of Optional Group Term Life Insurance, your payroll deduction will be automatically changed. The change in insurance will take place on the first of the month after the payroll deduction changes are made.

CHANGE IN AGE

As you reach the next higher 5 year age rate category for Optional Group Term Life Insurance, your payroll deduction will automatically be changed according to the employee monthly cost table on page 7.

TERMINATION OF INSURANCE

County-Paid Plan

Your insurance will terminate on the date you cease to be a permanent, full-time employee of the County.

Optional Plans

Your insurance will terminate on the last day of the month for which the last payroll deduction was made, if your employment with the County is terminated or if you voluntarily withdraw from the plan.

CONVERSION PRIVILEGE

If your insurance terminates because you cease to be eligible, you and your insured spouse will have 31 days after the date of termination of insurance to convert to any permanent individual life insurance policy issued by the insurance company. You may convert the terminated insurance, without a medical examination, at the insurance company's regular rates in force at the time of the conversion.

If, however, you or your spouse should die within this 31-day period, the full benefit would be payable whether or not you have applied for conversion.

This conversion privilege applies only to the County-Paid and the Optional Group Term Life Insurance plans. There is no conversion privilege on the optional Accidental Death & Dismemberment Insurance, nor is there a conversion privilege for Optional Group Term Life Insurance on your children.

ENROLLMENT INSTRUCTIONS FOR THE OPTIONAL INSURANCE PLANS

GROUP TERM LIFE INSURANCE – ACCIDENTAL DEATH & DISMEMBERMENT INSURANCE

- A. Complete the attached enrollment card as follows: (Please print in ink or type)
- 1. Fill in the top two lines completely. Use your full name. For birth date enter month, day and year of your birth.
- For Group Term Life Insurance
 You may select one only of Plans A through
 F. Read the description after each plan carefully and check the one you wish.
- 3. For Accidental Death & Dismemberment Insur-
- (a) Check either Plan G or Plan H, depending on whether you want insurance on yourself only, or on yourself and your dependents.
- (b)Select the amount of insurance you want (Employee Coverage). You may select any

one of the amounts numbered 1 through 7, provided the amount does not exceed ten times your annual salary rounded up to the next higher \$1,000; except, if ten times your annual salary falls between two amounts, you may select the higher amount.

Example: If your annual salary is \$6,480, round up to \$7,000. Ten times \$7,000 equals \$70,000. This falls between \$50,000 and \$100,000 on the schedule. You may therefore select \$100,000 or any lesser amount on the schedule.

DO NOT WRITE IN THE SHADED SECTION

- Turn the card over, check whether this is a new enrollment or a change in plan or amount, date and sign the card.
 - 5. Read the "HOW BENEFITS WILL BE PAID SECTION."

Do not write in this space UNLESS you wish to name a beneficiary not provided for in the "Automatic Beneficiary Designation".

ENROLLMENT CARD

Tear Out After Completion

OA TUTO	MIDDLE DEFL. NO.	BIRTHDATE TEMALE	FOR DEPARTMENTAL PERSONNEL OR PAYROLL OFFICE USE ONLY.	MUST BE COMPLETED BEFORE		I. Verify or correct employee	and department namoers, as shown above.	2. Enter employees nem letter designation	Item No.	3. Enter employee's annual salary rate (12 times	current monthly base \$ strate)	Bn.	enployed on permanens status (Appointment to	The above is verified as correct.	Signed: Departmental personnel or payroll representative
Circ	MID	SIP CODE	FOR DEPA OR PAYRO	MUST BE	SECTION.	I. Verify or	as shown above	Number, includin		3. Enter em	current n	4. Enter da	status (Ap.	The above i	Date
4000	FIRST		ANCE				provided your pt, if ten times	overed for the			Coverage With Spouse and Children	Each Child	\$ 500	2,500	5,000 5,000 5,000
	LAST NAME	CITY	MENT INSUR			t coverage	amounts (1-7), nual salary: exce	ints you may se ndents will be c		IOUNTS		Spouse	\$ 4,000	20,000	60,000 80,000 100,000
	E NO.	STREET ADDRESS	ACCIDENTAL DEATH & DISMEMBERMENT INSURANCE	Option G or H	${\tt OPTION} \; G - {\tt Employee} \; {\tt coverage} \; {\tt only}$	OPTION H — Employee and dependent coverage	You may select any one of the following amounts (1-7), provided your coverage does not exceed ten times your annual salary; except, if ten times	your annual salary talls between two amounts you may select the highest amount. It you select Option H, your dependents will be covered for the amounts shown conceipt voltre coverage.	ai coverage.	SCHEDULE OF AMOUNTS		Coverage of Spouse Without Children	\$ 5,000	25,000	75,000 100,000 125,000
	EMPLOYEE NO.		TAL DEATH	You may also choose either Option G or H	NG — Employ	N H — Employ	elect any one o	your annual salary talls between two amount. If you select Option H, your	own opposite yo	SCHE		Employee Coverage	\$ 10,000	50,000	150,000 200,000 250,000
	and Acci-	ance Plans	ACCIDEN	You may a	OPTIC	OPTIC	You may coverage d	amount. If	dillouilly at			Employe	1.6	w. 4.	
LOS ANGELES COUNTY	Optional Group Term Life Insurance and Acci-	dental Death & Dismemberment Insurance Plans	GROUP TERM LIFE INSURANCE	You may choose one only of Options A - F	OPTIONS	☐ A—12 times your annual salary	☐ B — 12 times your annual salary, plus dependent's life insurance	[] C — I times your annual salary	☐ D — I times your annual salary, plus	dependent's life insurance	E — 2 times your annual salary	F — 2 times your annual salary, plus dependent's life insurance			NOTE: EMPLOYEE MUST COMPLETE AND SIGN THE REVERSE SIDE OF THIS FORM.

EMPLOYEE TO COMPLETE THIS SECTION

CHECK ONE:	
- NEW ENROLLMEN	NT
CHANGE OF OPTI	ON OR AMOUNT
I hereby apply for the and or Accidental Death & Insurance options and amount the other side of this ca	ounts that I have checked
Date	Employee's Signature
HOW BENEFIT	TS WILL BE PAID
	insurance benefit will be paid in g "Automatic Beneficiary Desig-
1. Your surviving spouse,	or
2. If no surviving spouse, ing legally adopted child	to your surviving children, includ- fren, or
3. If no surviving childre	n, to your surviving parents, or
4. If no surviving parents,	to your estate.
If more than one person will share equally.	becomes entitled to benefits they
NOTE: If you wish a differer one above, you must complete	nt beneficiary designation than the e, date and sign the section below.
Name Of Beneficiary:	Relationship
Date	Signature

The insured employee will be beneficiary for dependent's coverage, if purchased.

ENROLLMENT INSTRUCTIONS - Continued:

- B. Complete the Payroll Deduction Authorization IBM card(s) enclosed with this booklet that apply to the coverage you selected, as follows:
 - If you have enrolled for Group Term Life Insurance, complete the pale green card;
 - (a) Fill in the top line completely.
 - (b) Check the Option (Plan) you have chosen.
 - (c) Check: "NEW" for a new enrollment. Check: "REPLACE" if this is a change of of option or amount. Check: "CANCEL" if you are cancelling your coverage.
 - (d) If you check "CANCEL" or "REPLACE" enter your former option in the box indicated.
 - (e) Date and sign the card.
 - If you have enrolled for Accidental Death & Dismemberment Insurance, complete the yellow card.
 - (a) Fill in the top line (employee number, full name and department number).
 - (b) Check the Option (Plan) you have chosen.
 - (c) Check: "NEW" for a new enrollment. Check: "REPLACE" for a change of option or amount. Check: "CANCEL" if you are cancelling your coverage.
 - (d) If you checked "REPLACE" or "CANCEL" enter your former monthly cost in the box marked "FORMER AMOUNT", in up-
 - (e) Enter your monthly cost for this insurance in the "DOLLARS" and "CENTS box.
 - (Obtain your monthly cost from the table on page 10 of this booklet).
 - (f) Date and sign the card.

per, right corner.

RETURN THE COMPLETED ENROLLMENT CARD AND PAYROLL DEDUCTION AUTHORIZATION CARD(S) TO YOUR DEPARTMENTAL PAYROLL OR PERSONNEL REPRESENTATIVE.

Group Term Life Insurance underwritten by



Accidental Death & Dismemberment Insurance underwritten by



HARTFORD ACCIDENT AND INDEMNITY COMPANY Hartford, Connecticut

Arranged by



JOHNSON & HIGGINS
Insurance Brokers
Employee Benefit Plan Consultants
Los Angeles, California

CITY OF FORT SMITH. POLICE DEPARTMENT. Fort Smith, Ark., January 17, 1972.

Hon, JOHN L. McCLELLAN, U.S. Senate, Washington, D.C.

DEAR SENATOR McClellan: Your letter in which you enclosed copies of pending Bills S. 2994, S. 33 and S. 1946 was referred to the Municipal Police Association by Chief Beyer for any comments we might have. We appreciate the consideration of our opinions in this matter. After careful study by the undersigned committee, it was determined that S. 2994 would be of more benefit to our members than either S. 33 or S. 1946. We feel that the enactment of this Bill would do much to further the law enforcement profession.

The following is in answer to your Illustrative Questions:

1. The State Legislature has provided \$10,000.00 life insurance to peace officers killed in the line of duty. No dismemberment programs have been provided.

2. There is no cost to the individual. The State pays the total cost.

3. Somewhat higher for public safety officers.

4. It is felt that Title III or S. 2994 could supplement our present program as it would tend to enlarge it to include dismemberment benefits.

5. Direct Federal program. It is felt that Federal government program

would be more beneficial.

6. Yes, However, it is felt that this would be necessary in order to obtain a desirable salary.

7. Title III. It would appear this would be the most beneficial to the

individual officer of this organization.

8. We feel that all public safety officers should be included in the same program.

Very truly yours,

CARL W. BEYER, Chief of Police. J. W. GILBRETH, Sr., Captain. PAUL LINTON, Sergeant. ARTHUR LANGSTON. Sergeant.

DEPARTMENT OF PUBLIC SAFETY, Little Rock, Ark., January 14, 1972.

Hon. JOHN L. McCLELLAN,

U.S. Senate, Chairman, Subcommittee on Criminal Laws and Procedures, Wash-

DEAR SENATOR McClellan: Thank you for your letter of December 21, 1971, requesting my views on S. 2994. Certainly, more benefits should be made available to our public safety officers. Their jobs are becoming increasingly difficult as each day passes.

In Arkansas, legislation was passed in the last General Assembly which provides for a death benefit of \$10,000 for any regularly employed public safety

officer killed in the line of duty.

In addition to this, state employed public safety officers are covered under Workmen's Compensation which provides death benefits of 37% of said officer's salary to be paid to his spouse until she remarries and 9% to his dependent children. Dismemberment benefits provide for \$2,500 for loss of one member or sight in one eye, and \$5,000 for the loss of two members or sight in both eyes. The state pays all costs incurred under Workmen's Compensation.

Group insurance plans are available to state employed public safety officers at a cost comparable to those of other governmental agencies and private busi-

nesses. A \$10,000 policy is available at a cost of four dollars per month.

Any programs enacted should only supplement current programs available. The programs made available by Titles II and III would be additional benefits that could help in the recruitment of new personnel and in keeping qualified and trained personnel currently employed.

Any Title II program that is enacted would be good; but before I can adequately evaluate these programs, the cost of such policies would be necessary. It would be inequitable for a public safety officer in Arkansas to pay the same rates for insurance as is paid by one in New York or Michigian. The cost of any insurance to be provided is the key factor for most individuals; and if it is greater than what is available on a state level, then acceptance of any such plan would be nominal.

Should the Congress decide to enact only one program, I would prefer to see Title III enacted. The benefits to be provided would require no contributions from either the individual or the governmental unit covered; and, as you well know, revenues are in short supply for all. The benefits of Title III would be a small payment to make in comparison to the sacrifice of the individual officer and his family; but, at least, he will not have to help pay for it.

Again, Senator, thank you for providing me with this opportunity to express my views on this legislation, and if I can be of further assistance in this matter,

please let me know.

Sincerely, yours,

WM. C. MILLER, Colonel, Chief, Police Services Division.

> CITY OF RICHMOND, OFFICE OF THE CHIEF OF POLICE, Richmond, Va., January 20, 1972.

Hon. John L. McClellan,

Senate Committee on the Judiciary, Washington, D.C.

Dear Senator McClellan: Thank you for your recent letter requesting my comments concerning benefit programs for public safety officers. My comments are as follows: S. 2994, the "Victims of Crime Act of 1972"

TITLE II

The aspect of this bill that concerns me the most is the small amount of coverage involved. How long could the family of a police officer live, after his death, on such a small amount. I am sure, however, that this plan would be an improvement over some plans which are available. The City of Richmond has a much better plan, one worth mentioning. Normal death coverage is twice the annual salary rounded off at the next highest thousand dollar mark. Accidental death is four times the rounded off salary. City employees pay only a small portion of the premium.

TITLE III

This is indeed a good benefit and would be appreciated by all public safety officers.

You and your committee are to be congratulated for your interest in public safety officers. Under your leadership, I am sure the committee will find a solution to the insurance problem.

I wish you much success with your bills.

Very truly yours,

Col. F. S. Duling, Chief of Police.

SHERIFF, PALM BEACH COUNTY,
MEMBER FLORIDA SHERIFF'S ASSOCIATION,
West Palm Beach, Fla., January 21, 1972.

Hon. John L. McClellan, Chairman, Subcommittee on Criminal Laws and Procedures, Judiciary Committee, U.S. Senate, Washington, D.C.

Dear Sir: Thank you for your letter of December 21st regarding my comments on certain proposed legislation concerning benefit programs for "public safety officers", currently pending before the Subcommittee on Criminal Laws and Procedures. It would appear from the attachments to your letter that the subcommittee analysis and research on this general subject has been exhaustive and, as I do not have available extensive research information, I must necessarily confine my comments to the present programs in effect in the Sheriff's Department in Palm Beach County.

The attached responses are made consecutively and in the order listed in the

questionnaire attached to your "memorandum".

Trusting that these comments may be able to assist you in making some determination as to the form of legislation to be considered by the committee, I remain,

Sincerely yours,

WILLIAM R. HEIDTMAN.

ATTACHMENTS

1. and 2.

A. Group life policy for all employees allowing for double his salary. The department absorbs half the premium.

B. Death in line of duty-\$20,000 coverage. Under Florida statute, the depart-

ment is responsible for the full premium.

C. Special risk state retirement allowing for payment of 42% of the officer's salary in the event of partial or permanent disability. Employees contribute 6% of salary for this coverage.

D. Usual workmen's compensation, which coverage cost is absorbed by the

department.

3.

We have no way of analyzing the relative comparable costs except under 1-B above. This related cost is \$14.80 per employee per annum for the special risk classification. For the non-special risk it is 80¢ per annum. A casual research reveals that we do not have difficulty obtaining adequate insurance.

4. and 5.

It is our opinion that Title 3 of Senate Bill 2994 should supplement our present programs.

6.

No long-term danger is envisioned to the independence of local police forces, as each local force should maintain their individual identities.

7.

Title 3 of Senate Bill 2994 is preferred, as noted in 4. and 5.

8

The term "public safety officers" should be all inclusive.

SHERIFF OF POLK COUNTY, Des Moines, Iowa, January 19, 1972.

Hon. John L. McClellan, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR SIR: Received your memorandum concerning "public safety officers" and would like to make a few comments concerning S. 2994 and S. 33 and also the Title II and III programs.

We have no present programs available in the State of Iowa, as it pertains to Polk County which it has a population of 260,000 people and is the largest

county in the State of Iowa.

I would certainly support the passage of Title II and III, of S. 2994 and further support that this be a direct funded program bypassing state participation or funding, as the State of Iowa is suffering from great financial stress at this time. Because of the above stated facts I question if the State of Iowa would appropriate their share of the funding at this time.

I do not fear direct Federal funding or any danger to local police forces, from such funding as this legislation is long over due and I feel the Federal Government is the only body that can effectively enact this legislation at this

time.

It is my opinion that it would not be advisable to set up separate programs for each separate category of "public safety officers", my reasoning for this is that in time one program would move ahead of another and discrimination would result.

Again I would very much support the passage of Title II and III of the program and if there is anything that my office or staff can do to help, you will have my full cooperation. With kindest regards, I remain,

Very truly yours,

WILBUR T. HILDRETH.

COUNTY OF SAN JOAQUIN, Stockton, Calif., January 18, 1972.

Subject: Public safety officer benefit programs.

Hon. John L. McClellan,

U.S. Senate,

Washington, D.C.

Dear Senator McClellan: I have reviewed the material sent and agree with your comments in the Congressional Record that we must be careful when establishing law enforcement assistance programs. Your concerns both in the areas of additional programs for public safety officers and the establishing of a national police force are appropriately directed. In reply to your questions California has a Workmens Compensation Program and special insurance coverage for some public safety personnel particularly sworn police officers. The actual nature, scope and extent of this additional coverage is many times dependent upon the law enforcement agencies that have it. The costs incurred for this coverage come from the system and the employee. We are unable to indicate a comparative analysis relative to other systems and/or private employees occupations.

Consideration should be given to supplement existing programs for this offers the best avenue for local control. The State/Federal program envisioned in S. 2994 again offers the opportunity for local supervision, maintenance and

control.

Independence of local law enforcement agencies is a very real concern, however, the definition of guidelines and the supervision of those guidelines may very well dictate the long-term independence. Based on the preceding comments, Senator McClellan's version allows for more flexibility and autonomy at the local level than do the other two bills.

From an administrative point of view it would seem that including all of the classifications proposed under the "public safety officer" concept would be

more feasible.

Rather than operate a program Federal to State or Federal to local agency, why not develop an insurance package along the same lines as the National Service Life Insurance coverage for the Armed Forces personnel during their service careers. This would mean Federal support to the individual without other local, State and Federal bureaucracies becoming involved, coverage only during the employee's career and paid for by the employee, costs on premiums based on similar factors as N.S.L.I.

Sincerely yours,

MICHAEL N. CANLIS, Sheriff-Coroner.

Office of the Sheriff, Hackensack N.J., January 20, 1972.

Hon. John L. McClellan, U.S. Senate, Senate Office Building, Washington, D.C.

MY DEAR SENATOR McClellan: In response to your letter of December 21, 1971, permit me to thank you for your kind invitation to comment on Senate Bill 2994.

I have taken the opportunity to examine the Bill in great depth, and in my opinion, the concept of the Bill is excellent in that its provisions do certainly

provide for innocent victims of violent crime in need.

As a former U.S. Marshall in the Eisenhower-Nixon Administration, and as one who has been in and out of law enforcement since 1937, I am most grateful to you and the cosponsors of the aforementioned Bill, for introducing legislation which I consider to be long overdue. I refer specifically to the provisions of the Bill which provide for an insurance program and death and disability benefits for public safety officers. These individuals who consistently place their life and limb on the line are a cornerstone of our society.

Allow me to respectfully suggest that the definition of Public Safety Officer as set forth in Titles 2 and 3 of the proposed Bill which in effect amend the definitional section of Sections 202 and 302 of Title 1 of the Omnibus Crime Control and Safe Streets Act of 1968, should be enlarged to include all Court attendants or Sheriff's Officers assigned to court room duty. Those public safety officers

who's primary responsibility is the protection of life, limb and property in the Courts of our Land, and their families I might add, deserve the protection which your proposed legislation encompasses.

It would appear to be necessary to also expand the purpose clause as set forth in Section 201 so as to include Court Attendants and Sheriff's Officers as are

defined in local laws to be law enforcement officers.

A suggested wording would be as follows: Sec. 201. It is the declared purpose of Congress in this title to promote the public welfare by establishing a means of meeting the financial needs of public safety officers, including policemen, firemen, correctional guards, court attendants and Sheriff's Officers as are defined in local laws to be law enforcement officers, their families and dependents, through insurance where commercial plans and those available from State and local governments are not adequate and to assist State and local governments to provide such insurance.

I have also been privileged to have had the opportunity to review a Bill filed by United States Representative Charles W. Sandman, Jr. (2-N.J.) which provides for a gratuity payment of \$50,000 to the family of a slain law enforcement officer, said payment to be made in addition to any other benefit or payment made under any other State or local law or plan. I would be in hopes that Representa-

tive Sandman's legislation would be complementary to Senate Bill 2994.

Your interest, Senator McClellan, in the area contemplated by the Bill gives us cause to thank you for your outstanding service to the people of our nation. We want you to know that the energies expended by you and your committee are

greatly appreciated by all of us in the law enforcement field.

Permit me also to add this thought, that in view of the fact that a large number of States are abolishing capital punishment, I would be in hopes that your distinguished body would give serious consideration to enacting Federal legislation which would provide that the killing of a police or fire officer while in the line of duty, would be a Federal crime which would be punishable by death, if convicted.

Once again, let me thank you for the opportunity of commenting on Senate

Bill 2994.

With warm personal regards, Respectfully submitted.

JOSEPH F. JOB, Sheriff.

Office of the Sheriff, Las Vegas, Nev., January 20, 1972.

Hon. John L. McClellan, U.S. Senator, Senate Office Building, Washington, D.C.

DEAR SENATOR McClellan: In response to your letter of December 21, 1971, I would like to offer the following comments with regard to the illustrative ques-

tions which you provided.

1. At the present time the employees of Clark County are covered by a group insurance plan underwritten by Continental Life and Accident Company. The life insurance is \$5,000 with an additional \$5,000 for accidental death and dismemberment. The Nevada Industrial Commission has provisions so that in the event an injury should result in death, there are certain benefits which are payable to dependents according to law. The amount is a percentage of the average monthly wage subject to a limit determined by law.

2. The cost for the coverage described above is borne by the employer.

3. The cost to the best of our knowledge, is the same for all the people employed by Clark County regardless of occupation or income level.

4. Consensus is that programs offered by Titles II and III of S. 2994 should

supplement, not supplant, our current programs.

5. It would appear that the Federal-State group life and dismemberment program should be the most desirable because the administration, nationally under L.E.A.A., already exists. As a result, this program could probably be implemented with much less confusion and possibly less cost and red tape.

6. Yes, the danger of a national police force.

Very truly yours,

RALPH LAMB, Sheriff.

POLICE DEPARTMENT, City of Indianapolis, January 26, 1972.

Hon, John L. McClellan, U.S. Senate, Committee on the Judiciary, Washington, D.C.

Dear Senator McClellan: In response to your inquiry of January 12th relating to Senate Bill 2994 now pending before the Subcommittee on Criminal Laws and Procedures. I am very appreciative of the opportunity that you have given me to comment to you and members of your Staff on this particular Bill.

My answers are as follows:

1. The City of Indianapolis does and is mandated by law to carry death and dismemberment programs for our officers.

2. There is no cost to the insuree who is a member of the Indianapolis Police

Department. All costs are handled by the City of Indianapolis.

3. The City of Indianapolis does not have an insurance policy per se but does

cover officers of the department.

4. I feel that members of this department and all other law enforcement agencies in this country should be recognized for the danger and peril in our modern day society. Just knowing that this would be available would give them peace of mind.

5. Title II would suffice the needs. I do believe in State sovereignty but feel that the Federal government should also be included to those who are sworn to

protect the Constitution of the State and the Constituion of America.

6. I do not believe there would be any long-term danger in the establishment of Federal type salary supplements. I do not believe that the Federal government can, under the Constitution, take over State or Municipality law enforcement. It might be a step in Federalized law enforcement in the minds of some but the precedents established would withstand this type of control.

7. Should Congress decide to appropriate funds. I would rather see the enactment of Title II for it does bring State and Federal into a cooperative approach

for a well meaning program.

8. Yes. I do feel that there should be an identity in this program that it should be for all those who fall into the street category of public safety officers, with a strict definition of what constitutes a public safety officer.

Very truly yours,

WINSTON CHURCHILL, Chief of Police.

METROPOLITAN POLICE DEPARTMENT, St. Louis, Mo., January 26, 1972.

Hon. John L. McClellan, U.S. Senate, Committee on the Judiciary, Washington, D.C.

Dear Senator McClellan: I am very pleased that you have asked for my comments on this important legislation. I believe that when an individual has been given the duty of enforcing the laws of a community, his welfare should become a vital concern of that community, and I welcome any effort designed to increase the security and personal protection of these men.

A man choosing a career in law enforcement exposes himself to dangers that would not be encountered in other occupations. There is the very real possibility

that he may be killed or become the victim of a disabling accident.

For a long time, the losses associated with these events were generally held to be the concern of the officer, his family or friends, or community charity.

It is my opinion that officers are not in the financial position to purchase the amount of personal insurance coverage that would be required to provide for these contingencies, and when tragedy occurs, the family is often forced to become dependent on the generosity of their friends or a sympathetic public.

It is for this reason that I am particularly pleased to see legislation of the

type proposed in the "Victims of Crime Act of 1972".

The St. Louis Metropolitan Police Department has recognized that officers should not be expected to provide for the emergencies arising from their jobs entirely by themselves. Group life insurance for officers is being provided at no cost to the officer. Minimum coverage is \$10,000 with an additional \$1,000 coverage accruing after each six (6) years of service. In addition to the financial protection afforded our men, this benefit has proved very helpful in recruiting and

retaining personnel. Most competitive employers provide such benefits, and law

enforcement agencies can no longer disregard this fact.

Our program is not intended to relieve the individual officer of his responsibility to look out for his own needs by acting as a substitute for his personal insurance program. Its objective is to supplement his efforts and personal planning when the need is most critical. It has been a positive step, but I realize that it can offer only limited relief from the tremendous financial burdens that would fall on a young family in a crisis. I view the provisions of Titles II and III of this legislation in the same manner.

Although I am not in a position to verify whether the insurance program outlined in Title II is justified based on disproportionate insurance costs for law enforcement personnel. I do believe that there is a definite need to establish a program to offer these men a better than average opportunity to increase their

financial security.

I would strongly recommend that all law enforcement officers be eligible to participate in the purchase of life insurance made available under the provisions of Title II, rather than limiting it to men in areas which currently have inadequate coverage. I believe that it would be an injustice to exclude men employed by jurisdictions which have recognized and acted on their responsibilities toward the security of the men.

While I consider that passage of both Titles II and III is desirable, I believe that enactment of Title III is the more important and will be the most beneficial

for men in law enforcement.

The establishment of a federal minimum death and dismemberment benefit to be paid for line of duty injuries will certainly go a long way toward easing the financial uncertainty for police families today. Obviously, no sum of money will take away the sorrow of a slain officer's family, however, it may serve as a tangible expression of society's gratitude for his sacrifice.

I am certainly appreciative of your efforts in enacting legislation which will provide compensation to the police officers and their families. If you need addi-

tional information, I will be most happy to provide it to you.

Very truly yours,

EUGENE J. CAMP, Chief of Police.

Office of the Sheriff, Phoenix, Ariz., December 25, 1971.

JOHN L. MCCLELLAN.

U.S. Senate, Committee on the Judiciary, Washington, D.C.

DEAR SENATOR McClellan: This letter is in response to yours dated December 21, 1971 regarding Committee Hearings on Senate Bills S-33 and S-2994.

With respect to S-33 and Title II of S-2994, which appear to be identical, the benefits would be negligible and the cost of setting up and maintaining such a program would be considerable.

Title I of S-2994 is, in my opinion, unworkable and the money could better

be spent in areas that would effectively reduce crime on the local level.

Title III of S-2994 is a step in the right direction. It offers the kind of no strings attached benefit that can mean a great deal to the officer and his family, be inexpensively administered by the existing agency and leave the police agency involved out of the picture, other than verification, and therefore, not subject to Federal Government pressure.

Title IV is an imaginative proposal and would be an excellent addition to the Organized Crime Control Act of 1970, which strikes out at the very source of a

very large part of the criminal activity in this Country.

Cordially,

JOHN MUMMERT, Sheriff.

DEPARTMENT OF POLICE SERVICE, New Haven, Conn., December 28, 1971.

Hon. John L. McClellan, Subcommittee on Criminal Laws and Procedures, Senate Office Building, Washington, D.C.

DEAR SENATOR McClellan: It is most encouraging to me as a law enforcement official, to know that Congress is prepared to lend federal assistance to victims of crime and for the insurance of public safety officers. In this connection, let me

address myself to the provisions of Titles II and III of S. 2994 and comparable

provisions of S. 33 and S. 1946.

The City of New Haven presently has no special insurance coverage for police and fire personnel beyond the normal pension plans. This situation exists in the face of some additional problems such personnel encounter in purchasing private insurance. Federal assistance is, therefore, vital to overcome this problem. I am convinced, moreover, that this would in no way endanger state and local autonomy since the proposed legislation does not connect federal assistance to any form of control over local public safety policies.

While I do not have a preference between the alternative insurance programs proposed in the three bills under consideration, I would urge your Committee to adopt the structure you feel will most expeditiously result in the establishment of the insurance program throughout the country. Finally, I hope that the federal contributions will be the maximum possible to avoid the need to deduct substan-

tial amounts from police salaries which are already too low.

Very truly yours,

BIAGIO DILIETO, Chief of Police.

Office of the Sheriff of Iowa County, Marengo, Iowa, December 28, 1971.

Hon. John L. McClellan, U.S. Senator, Senate Office Building, Washington, D.C.

DEAR SENATOR McClellan: In reply to your letter of December 21st regarding the benefit programs for "public safety officers" which are now pending before

the Subcommittee on Criminal Laws and Procedures.

I have read S. 2994 and more especially Titles II and III and after reading the bill and the aforementioned titles I am highly in favor of Title III in which there would be no individual contributions asked. My primary reason for this is due to the fact that the individual peace officer now has so much deducted already from his pay check that to cause any additional to be deducted would only cause further inconvenience, and as the pay of the individual peace officer still is not sufficient in the majority of the areas I feel this would be the best way to provide the benefits proposed by your bill. I am speaking from the standpoint of the sheriff or highway patrolman or city marshall in the State of Iowa.

I have had the occasion to visit with one of my Iowa Highway Patrol Sgts. in

this matter and he is in full agreement with my thinking as to Title III.

I wou'd like to commend highly you and your sponsors of S. 2994 for your efforts and consideration on behalf of peace officers and other persons connected with public safety and want to assure you of my assistance at anytime in all matters of mutual concern.

Very truly yours,

WILLIAM J. SPURRIER, Sheriff, Iowa County.

CITY OF JACKSON, MISS., January 4, 1972.

Hon. JOHN L. McCLELLAN,

Chairman, Subcommittee on Criminal Laws and Procedures,

U.S. Senate Judiciary Committee,

Washington, D.C.

Dear Mr. Chairman: I have read S. 2994 that you presented to the United States Senate on December 11, 1971, and I endorse the bill as is presented. I think that this bill is a step in helping the local law enforcement officers and the other "public safety officers" as stated in Title II, Sec. 500, (5) of S. 2994.

I have answered the illustrative question that you enclosed and I am returning

the same to you.

If I can be of further assistance to you or your committee, please feel free to let me know.

Sincerely yours,

LAVELL TULLOS, Chief of Police.

Answer to the Illustrative Questions

(1) At the present time we have a group insurance policy with the amount set at \$10,000.00 for the highest benefit with double indemnity. This is the highest amount of insurance that we can obtain from any insurance company in the area at this time. We are also under workman's compensation that pays an employee the sum of \$10,000.00 in case of death on the job.

We have a state plan that will educate the dependants of a law enforcement

officer that is killed in the line of duty.

(2) At the present time the City of Jackson matches 50% of our life insurance premiums and pays 50% of our hospital insurance premiums. This is only on the group insurance program that the City of Jackson has for all employees. At the present time my monthly premiums for life insurance and hospital premiums are set at \$21.45 per month.

(3) To give an example of this my wife works and has the same amount of coverage on her life insurance policy and a better hospital policy than I have and it costs her \$4.60 per month with her group insurance coverage. Ours is about

4 times that amount per month.

(4) Here I think that it would be a help to an officer if it supplements what we already have. It is hard for an officer to get any life insurance in our area and it would be of great help to an officer and his family if he could be supplemented

by this additional policy.

(5) I would prefer the two-stage State or Federal program envisioned by Title II of S. 2994. I believe that we could have a better program by the State having some control and voice in the type of insurance program that we go into. I also think that we could have better communication with the State level and be able to go to this level for our claims. In the memorandum that was sent out I liked the way it was worded and explained and I have to agree with S. 2994

Title II.

(6) No. I think that it will help the local police departments in being able to get better qualified men for the job. With men going to college and getting degrees in police science and etc. the state and local government is not able to pay the college graduate a salary that is worth while for the college graduate to become a police officer. I think that it would be of great help in getting college men to make a career out of law enforcement. The Federal money that the State has received in grants to better the departments has been a great success and has improved our department.

(7) I would prefer to see Title III if we could not get both. Here the program would not require an individual contributions and would be excludable from gross income for Federal tax purposes. The small department through the United States would benefit here for the officers would not have to pay for the benefits.

(8) According to Title II, Sec. 500, (5) I see no reason to separate any of the people listed here. We are all working for the same purpose and I see no reason to separate the programs for each separate category of "public safety officer".

> COMMONWEALTH OF VIRGINIA. COUNTY OF FAIRFAX, Fairfax, Va., January 6, 1972.

U.S. SENATE, Committee on Judiciary, Washington, D.C.

Attention: G. Robert Blakey.

DEAR SIR: 1. In answer to your questions reference Bill S2994, the following programs covering death benefits for "safety officers" are available in Fairfax County, Virginia:

a. Workmen's Compensation.b. Fairfax County Police Retirement System.

c. Fairfax County Supplemental Retirement System.

d. Fairfax County Group Life Insurance, if a participant.

e. Various private insurance plans available from various law enforcement officers associations.

(The cost, if any, to participating members is the same for all classes of members regardless of job classification. Plans are readily available to all personnel.)

2. From purely a parochial viewpoint, it is felt that Title II is just another group insurance plan that would add nothing to the insurance picture in Fairfax County, Va. The organization and administration required to administer the program would be out of proportion to the benefits to be derived, and would

be just another additional burden to the taxpayer.

3. It would appear that Title III is a more appropriate arrangement for covering dismemberment or death of a "safety officer" since the system would be simple to operate, would not require a large permanent staff to administer, and would become operative only when required. The program should be run on a Federal basis to insure equity to "safety officers" of the various states and should be supplemental to any state or local plan. This arrangement would not appear to pose any threat to the long range independence of local "safey officers" force federal control.

4. The term "Public Safety Officer" should cover those personnel envisioned by Bill S2994 and they should be included as a group in any plan proposed by Congress; fragmentation into separate categories would not be appropriate.

H. W. Bolinger, Chief Deputy.

Office of Sheriff of Goodhue County, Red Wing, Minn., January 7, 1972.

Hon. John L. MoClellan, Senator U.S. Senate,

Washington, D.C.

DEAR SIR: In reply to your letter of December 21, 1971, relative to several benefit programs for "public safety officers", I am submitting as per your request my comments. I have read through your bill entitled, S. 2994 and bill number S. 33, along with your statements introduced into the congressional record. I submit the following for your information. In my jurisdiction (Minnesota), we generally find the following:

(1) Generally locally units of government provide no additional insurance coverage or compensation other than what is provided for other local governmental employees. Generally this amount is not equitable coverage of death

or injuries incurred in line of duty situations.

(2) Families of law enforcement officers that are killed or injured under these situations, in addition to the personal loss, find periods of readjustment, difficult financial situations and loss of income and security for themselves and their children.

(3) There is available here in Minnesota Workmen's Compensation. However, this is totally inadequate and unrealistic for the sustaining of the family unit. Payments from this source are not based on a lump sum payment, but on a small monthly basis.

(4) Here in Minnesota police and firemen generally are not covered under the

benefits provided under social security.

(5) Risk factors of these positions (Law Enforcement) are not common to other jobs. Consideration should be given and fully realized that in addition to giving and providing the job service, the law enforcement officer is placing his

life as a part of that service.

Reviewing S. 2994, Title I, it is my opinion that this is a positive and definite approach in the right direction. The innocent public, victim of crimes, have suffered a great financial loss over the years. Compensation, as provided through such legislative action, would lend greatly to reduction of these hardships. Title II, In Minnesota numerous occasions have occurred over the past years where families of law enforcement officers killed or injured in line of duty incidents were faced with severe financial needs. Law enforcement officers, cognizant of these needs, have through their own efforts, voluntarily contributed financially toward assistance to these families. Local governments have no provisions to meet these conditions. Surely society has a direct obligation to these law enforcement officials.

Group insurance for public safety officers as provided under S. 2994, Title II, The Direct Insurance Program, would appear to be the most satisfactory, provided that the cost to individual officers would not be prohibitive. If a state program were adapted whereby local units of government would shoulder the matching costs, this would be satisfactory. However, there would be some question in my mind if local units of government would take this step. Programs

similar to NSLI, National Service Life Insurance, have proven that insurance coverage under Federal control is feasible, reasonable in cost and possible. I feel that most law enforcement officers would take advantage of such an insurance program along these lines. I also feel that programs such as this can eliminate the "dole" concept that the public may feel.

Title III, which provides for death or dismemberment benefits up to \$50,000 for public safety officers, their families, or their dependents in the line of duty

as a result of a criminal offense, is a definite must.

At this time I could not foresee any long term danger to the independents of local police forces from the establishment of direct Federal salary-type supplements. I would feel that this is a means to establish an equitable salary level throughout the country.

Hoping this will be of some material value to you, I remain,

Sincerely,

PAUL M. ZILIGITT, Sheriff.

CITY OF BATON ROUGE AND PARISH OF EAST BATON ROUGE, Baton Rouge, La., January 4, 1972.

Hon, John L. McClellan, U.S. Senate, Committee on the Judiciary, Washington, D.C.

DEAR SENATOR McCLELLAN: In response to your letter of December 21, 1971 I am enclosing my comments in accordance with the memorandum accompanying your letter.

One matter that I believe that should be of prime consideration in the proposed legislation is that because of low salaries the average police officer is unable to carry an adequate life insurance program. Thus, even though it is proposed that the government subsidizes a portion of the premiums, many officers will be unable to afford additional insurance premiums.

I appreciate your consideration in forwarding the proposed legislation for my

comments.

Very truly yours,

E. O. BAUER, Jr., Chief of Police.

ILLUSTRATIVE QUESTIONS

1. What programs are presently available within your jurisdiction in the way of death and dismemberment programs for "public safety officers" as defined by S. 2994?

The State of Louisiana under Article 14 Section 15.2 of the State Constitution provides payments to the surviving spouse and dependent children of full time law enforcement personnel who suffer death from physical violence while engaged in the direct apprehension of a person during the course of the performance of their duties.

The surviving spouse is entitled to \$10,000 and if there are minor children

an additional \$5,000 to each child.

No payment may be made until a judgment of a court of competent jurisdiction has decreed that the law enforcement officer did suffer death as a result of physical violence while engaged in the direct apprehension of a person be instituted by the Attorney General of the State against the Legislative Auditor.

No other programs are available.

2. What costs must be met by those individuals as well as units of government covered by these programs?

Under this state program there is no cost to the individual law enforcement officers.

In addition the City-Parish Government provides life insurance coverage in the amount of \$8,000 at no cost to all employees including public safety officers.

Available at a nominal cost to all employees is a group hospitalization plan. All employees pay the same premium rate regardless of type of employment. Due to low salaries the police officers are unable to carry adequate life insurance programs.

3. How do these insurance costs compare to those incurred by employees other than public safety officers in government and private employment in occupations at the same income levels?

(Please include here any information available to you to indicate whether or not public safety officers have difficulty obtaining adequate life insurance because of the reluctance of companies to write such insurance or low salaries, have to pay higher rates than other government employers, are excluded from double indemnity coverage, etc.)

The same rate is paid by all employees. See answer to question 2, above.

4. Should the programs offered by Titles II and III of S. 2994 supplement or supplant programs currently available to you?

Why?

It is my opinion that any federal program should supplement and not supplant the existing programs. The state program has been successful without cost to the individual and any federal program should be in the form of additional benefits, leaving the state plan as it is now.

5. Which would you prefer, the two-stage State or Federal program envisioned by Title II of S. 2994 or a direct Federal program or federal subsidy of an exist-

ing state or local program as suggested by S. 33 and S. 1946?

Why?

I prefer the two-stage State Federal program envisioned by Title II of S. 2994 whereby the federal subsidy would be paid through the State. The reason for this position is that if a program is set up through the State it is more in touch with the insured and problems are more readily solved locally than upon a nation-

6. Do you see any long-term danger to the independence of local police forces

from the establishment of direct Federal salary-type supplements?

Why?

Yes. From past experience in some areas it appears where the Federal Government becomes directly involved there has been a tendency for the Federal Government to determine who will be hired, what standards are to be set, guidelines to be followed, etc.

7. Should Congress decide it would be appropriate to enact either Title II (or the alternatives of S. 33 or S. 1946) or Title III, but not both, which would you

prefer to see enacted?

Why?

I would prefer Title III to be enacted as an alternative. Title III would provide coverage for death or dismemberment, to the individual at no out of pocket cost to the public safety officer.

8. Should all of those currently covered by the term "public safety officer" be included in the same program? Or would it be advisable to set up separate pro-

grams for each separate category of "public safety officer?"

I concur with the all inclusive term public safety officer and feel that there is no need for separate categories of public safety officers.

> SHERIFF OF HILLSBOROUGH COUNTY, Tampa, Fla., January 7, 1972.

Re benefit programs for public safety officers.

Hon. John L. McClellan,

Chairman, Committee on the Judiciary,

U.S. Senate,

Washington, D.C.

DEAR SENATOR: The following are comments concerning proposed Federal legislation currently pending before the Subcommittee on Criminal Laws and Procedures which you requested in your letter of December 21, 1971:

1. Florida Statutes 112.19, as amended in Chapter 71-301, House Bill 350, empowers the "employer" to pay \$20,000 to a law enforcement officer or fireman killed in line of duty. Florida State Retirement Special Risk Plan, Workmens Compensation, Social Security, \$2,000 group life insurance, \$20,000 death and disability policy, Colonial \$1,000 accidental death and disability policy.

2. Florida Statutes 112.19, as amended, \$20,000 costs 100% government. Florida State Retirement Special Risk Plan, costs 50% individual-50% government.

Workmen's Compensation costs 100% government. Social Security costs 50% individual—50% government. \$2,000 Group Life Insurance Plan costs 50% individual-50% government.

\$20,000 Death and Disability Policy costs \$2.00 per month individual and 86 cents per month government. \$1 000 Accidental Death and Disability Policy costs

100% individual at \$3.00 per month.

3. Information comparing insurance cost of public safety officers to other employees of government and/or private industry is not available. From experience, a law enforcement officer has to pay a rated premium most of the time. Rated premiums and low salaries prevent many officers from obtaining the coverage they or their family need.

4. Title II and III should supplement any and all programs which are currently available. The more coverage an officer has or can obtain, the better for all concerned. A good death and dismemberment program would help to retain public safety officers and relieve some of the burden on his family. The better the fringe

benefits, the easier it would be to obtain and retain good employees.

5. I would prefer the program as envisioned by S. 33 because the two bills are basically the same—the exception being that the government picks up one-third of the cost in S. 33 as compared to one-quarter of the cost in Title II of S. 2994.

6. Yes. From experience with Federal grants, the paperwork alone would be a hindrance. Such a plan could lead to a Federal or National police force. This, I would never want to see as I believe that Law Enforcement on a local basis is the first line of defense to local self-government.

7. Title III. The amount goes to \$50,000 for death or dismemberment.

8. No, fireman and correctional personnel have different duties, responsibilities

and types of hazards from law enforcement officers.

I hope that my observations are helpful to the Subcommittee. I also feel that legislation of this nature is very timely due to the circumstances of the day.

Very truly yours,

MALCOLM E. BEARD.

COUNTY OF KALAMAZOO, OFFICE OF THE SHERIFF, Kalamazoo, Mich., January 10, 1972.

Hon. John L. McClellan, Chairman, Subcommittee on Procedures, U.S. Senate, Washington, D.C.

DEAR SIR: In response to your letter written on the 21st of December, I would like to offer the following comments for your consideration. I feel the programs offered would be very beneficial to "Public Safety Officers" and their families.

Locally, the county provides our employees with \$7,500.00 with double indemity on accidental death. Through the National Sheriff's Association, an employee can purchase a \$10,000.00 accidental death policy for \$10.00 per year. They also can obtain a \$5,000.00 policy for \$5.00. I am not aware of any problem in obtaining an adequate program on insurance for our people.

I believe your proposal Titles Two and Three of S. 2994 could be used as a supplement in cases of low salary. I see no problem on including "Firefighters"

because of the similar dangerous occupation.

Title Three would seem more beneficial as it is broader in scope and would permit officers by units of governments to elect their participation in Federal or State programs.

These fringe benefits seem very important to law enforcement as it would hope-

fully enroll better qualified people in this professional occupation.

Hoping the above could be of some merit to your committee.

Very truly yours,

KIRBY A. MASON, Sheriff.

(Attention: Subcommittee on Criminal Laws and Procedures)

ARLINGTON COUNTY, VA.,
OFFICE OF THE SHERIFF,
Arlington, Va., January 12, 1972.

Hon. John L. McClellan, U.S. Senate, Washington, D.C.

Dear Sir: I have read your proposed Senate bill S 2994, with the following results:

A. I do not believe that a special compensation board should be established to compensate victims of crimes. In my opinion, this will be another case of the establishment of an office to accomplish something that our present Department of Health and Welfare could accomplish.

B. I further believe that the victims of crimes, which results in personal injury, should be compensated for through the welfare program by the payment of the hospital and doctor bills on a form similar to that used by champus, or as used by the insurance companies. Even the loss of salary by extended hospitalization, or disability, could be paid by this means.

C. I further believe that victims of crimes, which result in a material loss could be best compensated by regular insurance, such as the Home Owners Insur-

ance, and not by government grants.

D. In the case of law enforcement officers, I believe that present insurance available to these officers through the National Sheriffs' Association and the International Chiefs of Police Association adequately covers compensation for physical injuries of these officers. However, some means for awards for loss of life or permanent disability could be established, but I do not believe a compensation board should be established for this purpose. A procedure of special act of Congress for the relief of such officers, recommended through the Justice Department, who would sponsor a relief act to compensate such officers, would work very well.

E. We have in Virginia a procedure for the relief of officers killed, or receiving injuries in the line of duty, resulting in permanent disability. I have attached a copy of such a relief act, passed in 1968 by the Virginia State Legislature.

In summary, I believe that the acts proposed by you and the other Senators should be looked at with careful consideration of the expansion of government offices which sometimes cost more to operate than the benefits they accomplish.

offices which sometimes cost more to operate than the benefits they accomplish.

I thank you for your kind consideration of my above presented remarks.

Very truly yours,

J. ELWOOD CLEMENTS, Sheriff.

CHAPTER 758

An Act for the relief of Fred R. Keesee

TH 8881

Approved April 5, 1968

Whereas, Fred R. Keesee of Jonesville, Virginia, while in the execution of his duties as deputy sheriff did assist in the arrest of an intoxicated motor vehicle operator and in the course of such arrest and while inspecting the vehicle did touch a package containing unused dynamite caps which unexpectedly exploded; and

Whereas, as a result of said explosion, Fred R. Keesee was totally blinded and had to suffer the amputation of his right hand, thus resulting in permanent

disability; and

Whereas, neither the net insurance of ten thousand dollars or workman's compensation received by him suffices to compensate him for the disability suffered; now, therefore

Be it enacted by the General Assembly of Virginia:

1. § 1. There is hereby appropriated from the general fund of the State treasury the sum of ten thousand dollars, no part of which shall be paid on account of attorney fees, for the relief of Fred R. Keesee. This sum shall be paid by check issued by the State Treasurer on a warrant of the Comptroller as provided by law. The State Treasurer is directed to issue such check only upon the execution by Fred R. Keesee of a release of all claims which he may have against the Commonwealth or any employee thereof in connection with the injuries hereinabove described.

CHAPTER 759

An Act to amend the Code of Virginia by adding a section numbered 38.1-381.4, so as to prohibit automobile liability insurers from obtaining credit for other good and valid insurance covering the motor vehicle insured

[H 894]

Approved April 5, 1968

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia be amended by adding a section numbered 38.1–381.4 as follows:

§ 38.1–381.4. On and after January one, nineteen hundred sixty-nine no policy or contract of bodily liability insurance, or of property damage liability insurance which contains any representation by an insurance company to pay medical

expenses incurred for bodily injury caused by accident to the insured or relative or any other person coming within the provisions thereof, shall be issued or delivered by any insurer licensed in this State upon any motor vehicle then principally garaged or

SHELBY COUNTY SHERIFF'S DEPARTMENT, Memphis, Tenn., January 13, 1972.

Hon. John L. McClellan, U.S. Senate, Washington, D.C.

DEAR SENATOR McClellan: I have read with interest your proposed programs for "public safety officers" which are pending before the Subcommittee on Criminal Laws and Procedures.

Attached you will find a brief summation to the questions asked on page 4

of the memorandum.

I hope this information will be helpful to the Subcommittee and if I can be of further service, please feel free to contact me.

Sincerely,

Roy C. NIXON, Sheriff.

SUMMATION

1. A. Life insurance is provided to the employees of the department through the Shelby County Government's Group Life Insurance Plan. Employees are allowed insurance coverage in brackets according to salary level. The brackets are as follows:

	Insurance
Annual salary:	coverage
Less than \$2,000	\$2,000
\$2,000 but less than \$4,000	4,000
\$4,000 but less than \$6,000	6,000
\$6,000 but less than \$8,000	8,000
\$8,000 but less than \$10,000	12,000
\$10,000 but less than \$12,000	14,000
\$12,000 and over	18,000

Because of our startnig salary—\$622.00 per month—for Commissioned Officers, no officer has less than \$8000. insurance coverage.

B. Trip insurance—All County employees (including our Deputies) are covered with a maximum of \$100,000 life insurance or disability benefits when traveling on Shelby County business outside the boundaries of this County.

C. Pension Benefits:

1. line of duty—death or disability—if a deputy is permanent and totally disabled in the line of duty, he is granted a disability retirement allowance equal to 50% of his current compensation. If a deputy's death results from an accident in the line of duty, a benefit equal to 50% of his salary will be paid to his surviving widow until her death or re-marriage. If the member's wife does not survive him or if she dies or re-marries the benefits will be paid to the child or children of the member until they reach age eighteen.

2. survivor—if a member dies after fifteen years of service or after attaining the age of sixty or after retirement under any pension provision, his surviving spouse shall receive his accrued pension benefits until re-marriage or death. If a member's spouse does not survive him or the spouse dies or re-marries, the benefits will be paid to the child or children of the member until they reach

age eighteen.

D. Other normal retirement programs are in existence in this jurisdiction mainly the service retirement at 25 years and a payment of 55% of last year's salary.

E. This department makes available on a voluntary, non-participating basis,

accidental death insurance, disability insurance and cancer insurance.

F. Sick leave time is accumulated by members of our department at the rate of one (1) day per month to a total accumulated time of 120 days. In case of serious injury, the employee will use this accumulated time. Naturally, in the case of an injury in the line of duty we would pay an employee on the payroll until permanent arrangements can be worked—that is if he were going to be able to return to work he would be paid until that time or if he were to be incapacitated he would be fully paid until his pension could be arranged.

G. In our area we have a group known as the "100 Club." These are leading members of the community who assess themselves varying amounts of money to be put into a fund to pay the expenses of any policeman, deputy or fireman who dies or is severely injured in the line of duty. This is a voluntary organization which has functioned for a number of years but is based upon voluntary action of the community leaders.

2. A. With regard to the group life insurance available to the individual officer in our department in item A above, the county pays almost 70% and the employee a little less than 30%. The exact rates are 25 per thousand for the employee and .55 for the Sheriff's Department for a total of .80 per thousand. Our

officers pay the same rate as all employees in County Government.

B. The travel insurance as outlined in question 1 is totally paid for by the

County.

C. The pension is paid for by both the County and the employees. The employee pays 7% of his salary into the fund and has a vested interested at the end of 10 years. The County (in our case the Sheriff's Department) pays in 10.9% of the employees salary into the same fund. Should an employee leave and wish to withdraw the funds that he has placed in the retirement system he may do so. If a person does take a pension, either service or disability, of course his payments end. He is still allowed to carry his life insurance with the County Participating and also hospitalization insurance. The hospitalization insurance is paid for on a 60–40 basis with the County paying 60% and the employee paying 40%.

D. As we noted in question 1 the employee is allowed these miscellaneous type insurances at his own expense and with a payroll deduction. When employment ceases due to disability, pension or for any other reason then he must make his

arrangements with the companies directly.

E. Sick leave is a benefit which is not normally measured in dollars and cents.

It is merely available to the employees.

F. There is no cost to the County or to the employees for the "100 Club" activities.

3. In our group insurance program the men of our department pay the same rate as those in any other department. We are told, that our department helps the overall program because of our lower average age. Although our department is in the position of having a quite large potential death benefit, we have never had this to come to fruition. Additionally, we have never had a complaint from any of our men concerning reluctance of companies to write adequate life insurance or rating them up because of their line of work. We have had no complaint

that they were excluded from double indemnity coverage either.

4. Naturally, we would hope that the programs outlined in title II and III of S. 2994 would supplement rather than supplant our current programs. It is only normal to want additional benefits for your men. In particular title III is of interest to our department. Should a man in our department be killed in the line of duty, \$50,000 would be of great benefit to his family. The man running the risk of being shot or in other ways harmed in the line of duty would normally be a younger man who would really need this coverage to provide for a relatively young family. This is the type benefit that we have offered nowhere in our government structure, to the best of our knowledge. We believe this section should be expanded to cover any officer killed in the line of duty. Title II is somewhat a different question. The schedule of death benefits compares favorably with our current schedule. I believe some officers would come out better using your federal table and other officers would come out better using our current system of group life insurance. At this time we have under consideration a new plan. This plan would compensate out employees in death benefits at the rate of one and one half their annual salary rounded off to the next highest thousand. This would in my estimation be considerably better than the Federal Program outlined. If the insurance in title II were to supplant local programs, it would seem to me that each local jurisdiction would have to see which would be best for their own jurisdiction. I think that we might find that each jurisdiction would make a determination more according to the amount of money the local government would have to pay rather than the amount of coverage for the individual officer.

I would like to point out that this is the one thing we do not see in the bill—that is, how much would each individual officer pay. We note that in the various bills it ranges from 25% to 33.3% Federal Government participation. Does this envision the state and local government participating? If so what percent, and

what percentage to be paid by the local officer?

5. Our department does not feel confident in answering this particular question. Although we have read the bills that were sent to us with the question-naire we are not fully knowledgeable of the several differences between the bills. Our general impression, would be that it is easier to work through the established State Law Enforcement Planning Agency and through them to the Federal LEAA. Although direct communications with an agency in Washington might seem to be more simple, we find that it is more cumbersome going straight

to Washington than working through a local and state agency.
6. As our department read this bill, salary supplement never came to our mind. If there is to be considered a salary supplement and the Federal Government does intend any control over local agencies then our department would wish to decline participation. Our thought is that it should be specifically outlined in the bill that this action by the Federal Government in providing a fringe benefit to public safety officers across the country in no way gives the Federal Government the right to patricipate in the decision making process of the local enforcement agency. If there is any question as to Federal control, then our department and we feel many other departments would decline to participate regardless of the attractiveness of the benefits for our employees.

7. Should only one of the titles be enacted, our choice would be title III. This is a benefit which we do not have and which we would appreciate tremendously. We are not offering the fringe benefits of group life insurance and could continue to do so at the cost of local government and the employees. Quite possibly, the smaller department who have been unable to finance their own group life in-

surance program would prefer title II.

8. We are satisfied with the term public safety officer. We are of the opinion that the program should be broad. We would see no advantage to setting separate categories of officers except on an administrative level to show where the losses fall most heavily.

POLICE DEPARTMENT, Paterson, N.J., January 13, 1972.

Hon. John L. McClellan, U.S. Senate, Washington, D.C.

Dear Senator McClellan: I was most happy to review Bills S. 2994, S. 1946, and S. 33 being sponsored by you and other members of the senate. The concern shown by the sponsors of these bills for the welfare of victims of crime and for police officers injured or killed while protecting the citizenry is commendable.

In reading through these I have paid particular attention to those benefits accruing to police officers or their beneficiaries. I believe these benefits should be extended to fire fighters, and in the light of the recent outbreak of violence in

correctional institutional, to correction officers also.

Many states as part of the pension plans available to law enforcement officers make provisions for compensation in case of disability or death. Whether or not these are "adequate" is largely a matter of local or individual interpretation. Because of this, I suggest that those provisions of S. 33 and S. 1946 authorizing a Federal program in all cases to be made a part of S. 2994. In this way the greatest benefits that the officer could afford would be available to him.

If at all possible, I would like to see both Title II and Title III approved but if it becomes necessary to make a choice I think Title III offers more to the in-

dividual and should be the section enacted.

I am enclosing a recently printed hand book covering the New Jersey Police and Firemen's Retirement System. I particularly call your attention to page 10—Death Benefits; page 12—Accidental Death; and page 13—Workmen's Compensation. I believe these are fairly liberal benefits and suggest that possibly the Federal legislation could be patterned after these.

Thank you for soliciting my comments. I hope these will help in formulating

the final bills.

Very truly yours,

JAMES T. HANNAN, Chief of Police.

Police and Firemen's Retirement





NEW JERSEY DIVISION OF PENSIONS

a brief explanation of the

POLICE AND FIREMEN'S RETIREMENT SYSTEM

as of July 1, 1971

As a member of the Police and Firemen's Retirement System, you should know your pension program. Read this booklet carefully. Then, if you want further information or more copies of this booklet, contact Chief, Police and Fire Pension Funds Bureau, Division of Pensions, 20 W. Front St., Trenton, New Jersey 08625.

When asking about your retirement plan, be sure to give your name, present address, pension account number, and the name of your employing county or municipality.

This booklet is prepared and distributed by the

NEW JERSEY DIVISION OF PENSIONS

20 W. Front St. Trenton, New Jersey 08625 Phone: (Area Code 609) 292-3463

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Your Retirement . . .

is provided through the New Jersey Police and Firemen's Retirement System, one of the few retirement systems for policemen and firemen in the country which is operated on a State-wide basis. This is an actuarial reserve system, one of the most financially secure in the United States. Each year you, the policemen and firemen, and your employers contribute dollars to the System. This money is accumulated, with interest, to finance the retirement obligations of the System. The State provides every service to accomplish this, including a specialized Division of Investment to assure the best possible return on the secure investment of these funds. As a public employee the System provides you with:

- A retirement income based on years of service and average final compensation.
- 2. Disability retirement benefits.
- Financial protection to your survivor, including group life insurance, in the event of your death.

MEMBERSHIP

Prior to July 1, 1944, many New Jersey municipalities and counties enrolled their policemen and firemen in local pension plans. Since July 1, 1944, new policemen and firemen have enrolled in the Police and Firemen's Retirement System. Additional municipalities, and counties which had never maintained a local plan, may now enroll their policemen and firemen in this new System as a result of a referendum.

It is now mandatory for every full-time, permanent, regular policeman or fireman to become a member unless his municipality has never adopted the System by referendum.

The pension law has a maximum age requirement which is consistent with the law governing appointments of policemen and firemen. In areas covered by Civil Service, the Civil Service Commission determines the maximum age eligibility for candidates it examines. The age of the candidate on the announced closing date for the examination determines his eligibility for the life of the Civil Service list. Certain veterans are afforded

privileges with regard to maximum age requirements for both appointment and pension coverage. The maximum age for enrollment is currently 35 years.

Applicants for enrollment are subject to physical examination to determine if their health is sufficiently good to satisfy the System as required by statute.

SOCIAL SECURITY

Whether a policeman or fireman has social security coverage is dependent upon *WHEN* his municipality initially participated in the Police and Firemen's Retirement System:

- (a) You do NOT have social security coverage as a policeman or fireman if your municipality initially participated in the retirement system before social security coverage was extended to municipal employees, generally January 1, 1955.
- (b) You DO have social security coverage if your municipality adopted the Police and Firemen's Retirement System since January 1, 1955. If policemen and firemen were covered for social security in your municipality before it adopted the Police and Firemen's Retirement System, all policemen and firemen in that municipality are subject to social security tax deductions in addition to employee contributions to the Police and



HOW YOU JOIN

Selection of a person for a position as a policeman or fireman is the function of the employing municipality with the assistance of Civil Service in areas covered by Civil Service. However, before an employer makes an appointment he should be certain that the candidate is eligible for enrollment in the retirement system. Since membership in the retirement system is a condition of employment, a candidate who does not meet the age or medical qualifications of the retirement system would have to be discharged.

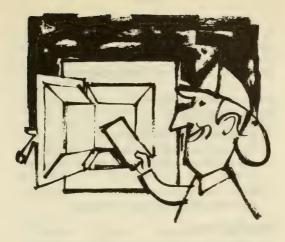
When you are employed and are eligible to join the System, your employer will give you an enrollment application. Complete the form and return it to your employer. The form includes space for the report of your physical examination which may be given by the department or other physician designated by the municipality for the System. The System may require a physical examination by its own medical examiners.

Your employer will forward the completed enrollment application to the retirement system. After the enrollment process has been completed, a certification will be sent to your employer, with a copy for you, to begin salary deductions for the retirement system. The certification form is important. It is your certification of enrollment in the System. You will also receive an insurance certificate indicating your designation of beneficiary. Your beneficiary will receive death benefit payments in the manner you selected. You may change the beneficiary and/or the method of payment at any time by advising the System. The retirement system will provide the necessary forms at your request.

NOTE: Keep these forms in a safe place and file other records or letters from the System.

PRIOR SERVICE CREDIT

When a municipality adopts the retirement system, enrolling members are given prior service credit for permanent, full-time service as a policeman or fireman in the municipality prior to the adoption of the retirement system. The cost of such service is paid for by the



employer. Once the member has enrolled, both the member and his employer contribute annually for current service credit. As most enrollees would be members of the Public Employees' Retirement System, their contributions and service credit would be transferred to the Police and Firemen's Retirement System.

Periods of probationary employment often precede permanent appointment of policemen and firemen. The System recommends immediate enrollment of policemen and firemen, but enrollment is optional during this "trial period" of probation. Once a member has enrolled, he must immediately decide whether or not he wishes to purchase credit for his probationary employment, if such probationary period preceded his enrollment in the System.

TRANSFER

A member who terminates employment with a municipality, but is appointed as a policeman or fireman with another New Jersey municipality which participates in the retirement system, may continue his membership without interruption, provided he did not terminate the membership by withdrawing the contributions credited thereto. Also, a member who transfers from the police department to the fire department of the same municipality may continue his original membership.

A member who accepts another public position which requires his participation in another New Jersey State-administered retirement system may transfer his credits to the other system by making a timely request for such transfer from the Police and Firemen's Retirement System.

END OF MEMBERSHIP

Membership ends if:

- (a) An employee retires or dies.
- (b) An employee terminates his employment and withdraws his contributions from the System.
- (c) More than 2 years have elapsed since the member's last pension contribution.

WITHDRAWAL

A member who resigns, is dismissed, or for some reason terminates his employment before qualifying for a benefit, receives the total of his contributions made to the System, less the value of any outstanding loan upon the filing of an application therefor.



CONTRIBUTIONS

Contributions to the Police and Firemen's Retirement System are established by the System on the basis of the age of the member at the time he enrolls. It is not necessarily the age at which the member was originally hired by the employer. Rates of contribution are given in the following table. However, please note:

(a) Contributions are deducted from your salary by your employer who forwards them to the System. They are a percentage of your gross base salary.

(b) Once you have been assigned a rate, it is not normally changed.

NOTE: Contributions are based on a member's age, to the nearest year, at enrollment. For example: an employee 28 years and 5 months of age at enrollment would be assigned a rate applicable to age 28. An employee 28 years and 6 months is considered 29 years of age.

SCHEDULE OF RATES

Entrance Age	Member's Rate	Entrance Age	Member's Rate
20	6.73%	38	8.57%
21	6.83%	39	8.66%
22	6.93%	40	8.74%
23	7.03%	41	8.83%
24	7.14%	42	8.92%
25	7.25%	4.3	9.01%
26	7.38%	44	9.10%
27	7.50%	45	9.20%
28	7.63%	46	9.29%
29	7.75%	47	9.37%
30	7.88%	48	9.44%
31	7.98%	49	9.50%
32	8.07%	50	9.55%
33	8.15%	51	9.58%
34	8.24%	52	9.60%
35	8.32%	53	9.61%
36	8.41%	54	*9.62%
37	8.49%		*Maximum

What Your Employer Does For You — The Police and Firemen's Retirement System is a reserve system rather than a "pay-as-you-go" retirement system. Your employer contributes sufficient money to meet the accruing liabilities each year. In theory, the System at any time has enough assets to meet its accruing obligations to its membership even though some of the obligations will not be due for many years.

The amount of the employer's contribution is certified each year by the System on the recommendation of the actuary who makes an annual actuarial valuation of the System.

DEATH BENEFITS: Group Life Insurance (All Non-Contributory)

If the death of a member occurs in active service before retirement, his beneficiary or estate will receive an insurance benefit equal to $3\frac{1}{2}$ times the compensation upon which contributions to the annuity savings fund were based in his last year of creditable service, as well as a return of the member's contributions.

A member who retires is covered by insurance in an amount equal to $\frac{1}{2}$ of such compensation.* However, if a member who has retired for disability dies before he attains age 55, an insurance benefit of $3\frac{1}{2}$ times such compensation is payable to his beneficiary.

*If the pensioner (other than one retired for disability), enrolled as member on or after July 1, 1971, benefits payable only if he had credit for 10 or more years of service at retirement.

Death benefits may be designated to be paid in:

- (a) Lump sum If a member chooses a lump sum payment of benefits, his beneficiary may elect to receive benefits in installments or as a life annuity in lieu of lump sum. (The ½ compensation benefit payable in the event of death following retirement, as well as the payment of the member's pension contributions must be in lump sum amounts.)
- (b) Installments for a certain period of time If the designated beneficiary dies before all payments have been made, the remaining value will be paid in a lump sum to the beneficiary's estate.
- (c) Life annuity The value of the annuity will be determined by the benefit amount and the life expectance of the beneficiary. Payments will cease at the death of the beneficiary.

Conditions: Death Benefits — The noncontributory group life insurance program protects the member in the following manner for the following approved leaves of absence without pay:

a. While receiving periodic benefits under Workmen's Compensation or similar law.

- b. Up to 2 years while on an official leave of absence for personal illness other than an illness to which (a) applies.
- Up to 1 year while on official leave for the member's maternity.
- d. For the time in which the member's claim for disability retirement benefits is being processed, provided the claim was filed within 30 days following the member's termination of active service.
- e. Up to 1 year: (1) to fulfill a residence requirement for an advanced degree, or (2) as a full-time student at an institution of higher education.
- f. Up to 93 days while on an official leave of absence for reasons other than illness.

However, it is important that:

- Members who go on leave of absence be officially granted a leave by their employer and that a copy of the leave resolution be submitted to the retirement system.
- Members should file forms with the retirement system designating the beneficiary or beneficiaries for death benefits and indicating the manner in which these benefits are to be paid.

Proof of insurability is required of any person becoming a member of the System when more than one year has elapsed since his compulsory enrollment date, or if the member has been enrolled on the basis of special legislation.

Conversion privileges are available to all members who terminate employment (retire or resign) and to those members whose period of leave extends beyond the periods of coverage set forth in (c), (e), or (f) above. An application for conversion must be made directly with the Prudential Insurance Company and before a period of 31 days has elapsed following the date of termination of employment or coverage during leave.

NOTE: If, after conversion, a member returns to employment, he must either drop the private policy or prove insurability by medical examination to be covered again by the System's insurance benefits.

For more detailed information on the group life insurance program, see the separate booklet, "Group Life Insurance Program for Members of the Police and Firemen's Retirement System of New Jersey."

ACCIDENTAL DEATH

If a member dies in active service as a result of an accident met in the actual performance of duty at a definite time and place, and not as a result of his own negligence, the System will pay his beneficiary (see definitions, page 18).

- (a) To the dependent widow or widower, a pension of 50% of the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service for the duration of widowhood. If the dependent widow or widower dies, the benefit is continued to eligible children in specified amounts (20% 1 child, 35% 2 children, 50% 3 or more children). If there is no eligible widow, widower or child, the benefit will be paid to the surviving dependent parents (25% 1 parent, 40% 2 parents). In no event shall such benefits be less than the amount of the member's pension contributions.
 - (b) In addition, there shall be paid to the member's designated beneficiary, the insurance death benefit of 3½ times such compensation. Where no survivor is entitled to an annual pension, the payment of the member's contributions plus these death benefits are paid to his beneficiary or estate.

NOTE: A report of accident must be filed with the retirement system within 60 days of the accident and the application for accidental death benefits must be filed within 5 years of the date of death.

Beneficiary Designation — The insurance will be paid to the person or persons you name as beneficiary. You may name anyone you wish and you may change your beneficiary at any time by making written request to the retirement system; the designation should be maintained on a current basis. The necessary form may be obtained through the Division of Pensions.

It is generally desirable to name a particular person or persons as beneficiary rather than your estate. This may avoid unnecessary delay and expense after your death.

Supplemental Variable Annuity — All members are eligible to participate in the Supplemental Annuity System by additional payroll deductions. Participation would terminate when membership in the retirement system ends. At retirement a participant could receive a monthly variable annuity supplementing the fixed benefits provided by the retirement system.

LOANS

To borrow from the System, you must:

- (a) Have at least 3 years of contributing membership credit.
- (b) Repay such loan at 4% interest.
- (c) Be under age 55 and repay such loan before reaching age 55.
- (d) Not make more than 2 loans in any one calendar year.
- (e) Be actively employed when the application for the loan is filed.

You may borrow amounts from \$50.00 up to half of your aggregate contributions. Payments will be deducted from your pay and cannot exceed 25% of your salary. Payments must equal the member's normal pension deduction. Any outstanding balance at retirement must be paid before a retirement application can be approved.

WORKMEN'S COMPENSATION

Any member who is awarded periodic disability benefits under Workmen's Compensation is considered to have the same status as that of an active employee for the duration of such benefits. The employer is obligated by law to pay the member's regular pension contributions while he is receiving such periodic benefits. As such, a member is considered an active employee and the retirement system may not honor any form of application for withdrawal until his periodic benefits under Workmen's Compensation have terminated.



RETIRING

When a member decides to retire, he should:

- (a) Ask the System for a quotation of retirement benefits at least 6 months before his anticipated retirement. The member will then have time to review his benefits.
- (b) File a complete and proper retirement application with the System at least 1 month before his anticipated retirement date.
- (c) Be fully aware that his retirement may not become effective prior to the date the System receives his application.
- (d) Know that if death occurs within 30 days after board approval or the effective date of retirement, whichever is later, such retirement is not effective and the benefits payable will be paid as if he had not retired.
- (e) Appreciate that no gross allowance or pension will be paid unless it amounts to at least \$25.00 a month.
- (f) Understand that if he is receiving periodic benefits under Workmen's Compensation, the actuarial equivalent of such benefits remaining to be paid will reduce the pension portion of his allowance.

NOTE: Employees covered by New Jersey Blue Cross and Blue Shield, Green Cross or the State Health Benefits Program as active employees may continue coverage after retirement at group rates. Requests for transfer to the

pensioners' groups maintained by the Division of Pensions should be made when the member applies for retirement.

Retirement Forms — Application for retirement must be made on forms prescribed by the Police and Firemen's Retirement System. Special forms for age and service, ordinary and accidental disability are required. These forms are usually available in the municipality but may be readily obtained from the Division of Pensions. All retirements are effective on the first day of a month. Monthly retirement allowances are paid after the end of the month. No benefit is payable unless it is a payment for an entire month.

An application for ordinary or accidental disability retirement requires medical data supporting the claim. All x-ray reports, hospital records and attending physician reports must be submitted to show the current physical condition of the applicant. Supplemental forms and the retirement application develop the history of the accident and include statements of the department physician and the Director of Public Safety. Applicants for disability retirement will be required to be examined by physicians designated by the System. In addition, all medical data is submitted to a Medical Board which acts as medical advisor to the Board of Trustees. If the applicant submits complete information with the application, it enables the Board to arrive at a prompt decision.

Income Taxes — Shortly after retirement the System sends the retirant a statement showing all information he needs to determine income tax liability on his retirement benefits. The retired employee should take this statement to his local Internal Revenue office to ask their assistance in preparing his annual income tax return. Annually, the retired member will receive a Form 1099 (similar to the W2) which shows the total retirement benefits he received during the preceding calendar year.

Retirement Benefits

Service Retirement — A member may retire at 55 years of age. His benefit is based on 2% of average final compensation for each of the first

25 years of creditable service and an additional 1% of average final compensation for each year of creditable service in excess of 25 years.



Example A: 25 years of service at age 55 equals 25 times 2% or 50% of average final compensation.

Example B: 27 years of service at age 55 equals 52% of average final compensation.

"Years of Service" are the member's years of credited service in the retirement system. "Average Final Compensation" is the average of the last 3 years of membership or the highest 3 fiscal years of membership service, whichever provides the larger benefit to the member or beneficiary. "Compensation" is the base salary on which he has contributed to the System. It shall not include individual salary adjustments granted in anticipation of a member's retirement or additional remuneration for performing temporary duties beyond the regular work day.

Special Retirement — A member who has 25 years or more of creditable service in the retirement system AND is 51 years of age, may retire before age 55. In such an instance the

retirement benefit will be calculated exactly as the regular service benefit — 2% of the member's average final compensation multiplied by the number of years of creditable service up to 25 years plus 1% of his average final compensation multiplied by the number of years of creditable service over 25 years.

Deferred Retirement — A member who has established at least 15 years of creditable service in the System, but who has not yet attained 55 years of age, may apply for deferred retirement. A deferred retirement benefit is calculated on the same formula as age and service retirement, but no benefits are paid until the member attains 55 years of age.

Ordinary Disability — Members, under the age of 55, who have established at least 5 years of creditable service in the System and who are totally and permanently disabled for further duty due to causes other than an accident while on duty, are eligible for ordinary disability retirement. The minimum ordinary disability retirement allowance is 40% of average final compensation payable for life or until the member recovers from the disability.

Accidental Disability - If a member is totally and permanently disabled for further duty as the direct result of a "traumatic event occurring, during, and as a result of the performance of duty," he is eligible for an accidental disability retirement benefit, provided an application is filed for such retirement within 5 years after the date of the traumatic event which caused the disability. The traumatic event must not have been the result of his willful negligence. The member receives an allowance of two-thirds of the annual salary on which he was contributing to the System at the time of the accident. The allowance is continued for the life of the member or until he recovers from the disability.

Any member applying for accidental disability retirement and who is found to be disabled, but *NOT* as a direct result of an accident in the performance of duty and who meets the qualifications for ordinary disability or service retirement, will be retired on that basis, and therefore may receive a lesser benefit. There is no provision for granting benefits for partial or temporary disability.

Examinations — (See items 2 and 3, page 19).

Mandatory Retirement — Any member, no rank or title excepted, must retire upon reaching age 65, and will be retired on a service retirement allowance on the first day of the next calendar month.

SURVIVOR PENSIONS: Definitions

"Child" — an unmarried child of the deceased member or retirant under the age of 18, or a child who is disabled because of mental retardation or physical incapacity which is expected to last for at least 12 months as affirmed by the medical board.

"Parent" - the parent of the member who was receiving one-half of his support from such member in the 12 months just preceding the member's death or the accident which was the direct cause of death. Subsequent marriage of the parent will terminate dependency.

"Widower" — the man to whom the member or retirant was married at least 5 years before the date of her death, who has not remarried, and who was receiving one-half of his support from the member in the 12 months just prior to the death or the accident which was the direct cause of death.

"Widow" — the woman to whom a member was married at least 5 years before the date of his death, who has not remarried, and who was receiving one-half of her support from the member or retirant in the 12 months just preceding the member's death or the accident which was the direct cause of death.

NOTE: In the event of an accidental death benefit, the 5 year qualification for "Widower" or "Widow" shall be waived.

Survivor Pensions (Death after Retirement) The surviving dependent widow or widower of a retired member will be paid an annual pension of 25% of the member's average final compensation to continue through widowhood, plus additional benefits payable to eligible children in specified amounts. If there is no dependent widow or widower, or if the dependent widow or widower dies or remarries, benefits will be paid to the surviving children in specified amounts.

NOTE: In no event shall a widow's benefit be less than \$1600.00 per annum.

PENSIONERS, OTHER EARNINGS

Most policemen and firemen will not resume employment after retirement. However, for the handful who do, there are four matters which concern retired members who resume employment after their retirement from public service. The first and second involve the pensioner who returns to public employment, the third stipulates a requirement pertaining to disability retirants and the fourth concerns all who are eligible to receive Social Security benefits.

- 1. Most retired members will have no limitation on their earnings following the acceptance of a position in public employment in New Jersey. The pensioner who accepts employment in a position normally covered by another retirement program, other than the Police and Firemen's Retirement System, will not be permitted to enroll in such other pension plan but will be eligible to continue to receive his retirement allowance. However, if he returns to a position covered by the Police and Firemen's Retirement System, the retirement allowance will be cancelled and he will be required to reenroll if he is otherwise eligible. Upon subsequent retirement his former allowance will be restored and he will receive an additional allowance based on his service since his return to duty.
- A disability pensioner who is restored to active service will be reenrolled and will again have deductions made from his salary. He will be treated as an active member in all respects. Upon subsequent retirement, he will receive an allowance based on all of his service.
- With respect to disability retirants, until they reach age 55 but for not more than five years after retirement, such retired members may be requested to undergo annual medical examinations.
- There is also an earnings test for anyone receiving Social Security benefits. When an individual files an application for Social

Security he is advised how earnings will affect the receipt of his Social Security benefits. As Social Security is a Federal program, we recommend that information pertaining to the receipt of Social Security benefits must be obtained from the local district office of the Federal Social Security Administration.

ORGANIZATION OF THE SYSTEM

The Police and Firemen's Retirement System is part of the Division of Pensions in the Department of the Treasury of the State Government. The general responsibility for the operation of the System is that of a Board of Trustees, consisting of four employee representatives elected by the membership (two policemen and two firemen), four citizens of the State appointed by the Governor, and the State Treasurer. The elected members serve four year terms and the public members, three year terms.

The System's actuary is responsible for evaluating its resources and obligations and for recommending changes in the tables upon which many of its operations are based. It is also aided by a medical board consisting of three physicians who review all claims for disability benefits. The Attorney General serves as the legal advisor of the System. The State Division of Investment is responsible for the System's investments. The various funds maintained by the System are subject to examination by the Commissioner of Insurance. The System annually issues a report showing the condition of the System, membership, etc. A statement of each member's account is furnished to him annually.

Booklet Provisions — For simplicity, the benefit and contribution schedules of the Police and Firemen's Retirement System have been described in a rather general manner in this booklet. The complete terms of the benefits provided by the System are given pursuant to the statute establishing the System and any such amendments or supplements thereto, as statutes are modified from time to time by interpretation of the Courts, the Attorney General and rules promulgated by the Board of Trustees.

GOVERNMENT OF THE DISTRICT OF COLUMBIA,
METROPOLITAN POLICE DEPARTMENT,
Washington, D.C., January 17, 1972.

Hon. John L. McClellan,

U.S. Senate, Committee on the Judiciary, Subcommittee on Criminal Laws and Procedures, Washington, D.C.

DEAR SENATOR McClellan: The high number of injuries and deaths sustained by law enforcement personnel in the last few years has pointed up the need for adequate insurance coverage for public safety officers. We therefore welcome

the opportunity to comment on proposed legislation for such coverage.

In April 1968 Congress passed the Non-Federal Law Enforcement Officers' Compensation Act, Public Law 90–291. This Act supplements the D.C. Policemen and Firemen's Retirement and Disability Act and its benefits are provided at no cost to the individual officer. Payments under the Act are made from a compensation fund administered by the Department of Labor. Payments under the Disability and Retirement Act come from a fund established by a seven percent contribution from the individual officer with a matching contribution from funds appropriated by Congress.

Members of this Department have the same insurance available to them as civilian members of the government. To my knowledge members of the force have

no difficulty in obtaining adequate insurance coverage.

We would like to see Titles II and III of S. 2994 supplant the Federal Employee's Compensation Act. We would further like to see Title II of S. 2994 so worded that it would supplement the provision of the D.C. Policemen and Firemen's Retirement and Disability Act.

We favor the direct payment procedures of S. 33 and S. 1946 because the indirect payment procedures of S. 2994 would be, in our case at least, cumbersome and

administratively inefficient.

If the legislation proposed is limited to insurance coverage there should be no

danger to the independence of local police forces.

Given the choice between Title II (or the alternatives of S. 33 or S. 1946) and Title III we would prefer Title III. The Federal Employee's Compensation Act would be an acceptable alternative to Title II whereas the provisions of Title III would be an addition to existing insurance programs. Officers who are killed or seriously injured in the line of duty have a clear and present need for the funds that Title III would provide.

Sincerely,

JERRY V. WILSON, Chief of Police.

Police Department, City of Alameda, Alameda, Calif., January 17, 1972.

Re Public safety officers and S. 2994, the Victims of Crime Act of 1972. Hon. John L. McClellan,

U.S. Senate,

Washington, D.C.

My Dear Senator McClellan: Time did not permit a detailed analysis of all the facets of your inquiry, but I hope that these responses will assist you in your deliberations.

1. What programs are presently available within your jurisdiction in the way of death and dismemberment programs for "public safety officers" as defined

by S. 2994?

The City of Alameda has a pension ordinance providing for disability retirement. The unique example of its benefits is illustrated by one officer who was appointed on January 10, 1923, was injured in a motorcycle accident, was retired on disability on October 1, 1924, and is still receiving his disability pension.

The California State Compensation Insurance Fund provides death and disability insurance, and awards are made separately or in conjunction with the

city pension ordinance, depending on the facts of a given case.

2. What costs must be met by those individuals as well as units of govern-

ment by these programs?

The City of A'ameda contributes about 12% of the employees' salary and the employee contributes between 4% and 9%, depending on several factors.

Premiums to the State Compensation Insurance Fund are contributed by the City of Alameda, and vary depending on the accident experience of employees

during given periods of time.

3. How do these insurance costs compare to those incurred by employees other than public safety officers in government and private employment in occupations at the same income levels?

Pension contributions are higher, but benefits are more liberal.

Insurance premiums are higher because of the higher risk of injury.

I have been a police officer for over 30 years and have never been refused private insurance, nor felt I was charged excessive premiums, because of my profession.

4. Should the programs offered by Titles II and III of S. 2994 supplement

or supplant programs currently available to you?

They should supplement available programs. In addition to the programs cited above, California law enforcement officers, through a variety of associations, have available to them at low rates excellent death and dismemberment group insurance programs.

5. Which would you prefer, the two-stage State or Federal program envisioned by Title II of S. 2994 or a direct Federal program of Federal subsidy of an exist-

ing state or local program as suggested by S. 33 and S. 1946?

The two-stage program of S. 2994 as it requires cost sharing by the insured. 6. Do you see any long-term danger to the independence of local police forces from the establishment of direct Federal salary-type supplements?

Yes. Direct Federal supplementary aid invariably involves Federal control,

and we have too much Federal control in all of our activities now.

7. Should Congress decide it would be appropriate to enact either Title II (or the alternatives of S. 33 or S. 1946) or Title III, but not both which would you prefer to see enacted?

The President of the Alameda Police Association states, "if only one of the benefits can be provided, Title III would be the preferred section (this deals

with a straight benefit for death or dismemberment)."

8. Should all of those currently covered by the term "public safety officer" be included in the same program? Or would it be advisable to set up separate programs for each separate category of "public safety officer?"

The "public safety officer" should be very broad in definition and cover anyone

who, for compensation or voluntarily, performs duties having to do with the protection of the public. Unfortunately, some of those assassinated have been clerks whose duty required them to be in an office where policemen work. Are their lives any less dear?

If you would like clarification or a more detailed response to any of the ques-

tions, please do not hesitate to ask.

Sincerely yours,

RICHARD YOUNG. Chief of Police.

CITY OF SPRINGDALE, POLICE DEPARTMENT, Springdale, Ark., January 9, 1972.

Hon. JOHN L. McCLELLAN. Senator From the State of Arkansas, Washington, D.C.

DEAR SIR: Having carefully studied the material supplied by your office concerning United States Senate Bill 2994, entitled "Victims of Crime Act of 1972", I would like to express my complete support for the proposed legislation as written. Particular interest and satisfaction, however, naturally focuses on Titles II and III of the Bill as a direct result of my long-term involvement with the field of law enforcement.

With regards to presently existing death and dismemberment programs for public safety officers, there are none per se in our area. Only private plans, offered on an individual or a group basis, are currently available. Financial limitations on the part of both municipalities and officers preclude participation in many

such plans that would otherwise provide adequate coverage.

It is my personal opinion that coverage of the type presented in S. 2994 should supplement present programs where cities have already obtained some degree of coverage for their public safety personnel. This would then allow additional insurance where such is now, or later becomes, economically feasible. Due to the nationwide scope of the proposed plan and the extreme variations in conditions involved, this would probably be the easiest and most constructive route to follow.

I certainly do not see where programs of this type herald eventual control of local law enforcement agencies by the Federal Government. This is provided, of course, that assistance, where granted, does not become encumbered with "riders" and other amendments calculated to erode local controls and dictate local policies.

Assuming the hypothetical situation described on Page 4 for your Memorandum (Question No. 7) to be the case, Title III would be the priority section, especially in the light of rising police casualties and generally low survivor's benefits, where available at all. This would be the least owed to the families of those officers "killed in action".

Inclusion of the various categories under the broad term "public safety officer" is acceptable, even preferred, provided that no problems are anticipated as a

result in the eventual passage of the legislation.

In closing, let me reiterate my support of the overall principles and purposes of Senate Bill 2994 and express both my personal thanks and the appreciation of my entire department for your continued efforts in behalf of law enforcement. I was honored by your request for information and opinionation concerning this matter. If I can be of any further assistance, please advise.

Yours very truly,

WAYNE HYDEN, Chief of Police.

CRIMINAL SHERIFF, PARISH OF ORLEANS, New Orleans, La., January 12, 1972.

Hon. John L. McClellan, Subcommittee on Laws and Procedures, U.S. Senate, Washington, D.C.

DEAR SENATOR McCLELLAN: I am in receipt of your letter and atachments of December 21, 1971 regarding Senate Bill 2994 and Senate Bill 33, and I have read and studied the material presented.

I believe that S. B. 2994 is, as a whole, an excellent piece of legislation which can go a long way in providing relief for the forgotten people in our war against

crime, i.e., the law enforcement officers and the victim of crime.

Washington has been most effusive in generating legislation and court decisions providing assistance and protection to the perpetrators of crime. So it is indeed encouraging to see the Congress consider the other side of the crime picture.

There are some points in the bill's Title II that I feel could be improved. The states and local governments are hard pressed financially and as a result, the salaries paid to police and other law enforcement officers are meager by comparison to wages paid by business and private industry. The law enforcement officer, through his activities and mere official presence, insures the tranquility and stability of the Nation and, as such, his welfare should be a national concern.

I believe that the Federal Government should entirely subsidize Title II without any requirement that the individual officer contribute to the premium. It has been my observation that due to the low pay scale prevalent in the law enforcement profession, many will be forced to forego the protection of Title II for the more immediate and pressing demands of family responsibility if they are required to make this contribution.

I ask you to give this problem your most serious consideration. Perhaps Title II could be rewritten along the lines of the provisions of Title III, which I

consider to be excellent.

Title I of your bill is a splendid provision and, although limited in scope, shows the way for the States to enact similar legislation, particularly in view of the financial assistance from the Law Enforcement Assistance Administration envisioned in the latter part of Title I. I might add that perhaps more emphasis could be placed on having the convicted offender share some of the costs under Title I. I believe that this might well have a therapeutic effect on the offender as well as providing a potential deterrent factor.

In reading S. B. 33, which pertains primarily to financing Title II of S. B. 2994, I note the same objections as mentioned above, and recommend a com-

pletely subsidized program.

In response to the questions sent with your letter:

(1) My officers are not covered by life insurance. They do have medical coverage up to \$2500 and workman's compensation benefits not to exceed \$49 per week.

(2) No contributions are made by my officers to their medical coverage. However, the cost of coverage to dependents or any other riders must be borne by the officer.

(3) I have no information on relative costs of this coverage, but it is my guess

that costs for law enforcement officers are greater.

(4) Since such coverage is now available to my officers at no cost as it applies to them, I would hope that Titles II and III of S. 2994 would supplement the currently available coverage.

(5) I would personally prefer the procedure suggested by S. 33 and S. 1946

as they would appear to involve less administrative costs, red tape, etc.

(6) No.

(7) Title III because there is no necessity for the individual officer to contribute.

(8) All should be included in the same program because it would be simpler to administer and because in these times of rising crime and increased militancy

any officer can find himself exposed to serious risks at any time.

I am appreciative, Senator, of the opportunity to comment upon this proposed legislation and I hope that my remarks may be of some assistance to you.

Please know that you have my admiration and encouragement in what

you are trying to do. Very truly yours,

LOUIS A. HEYD, Jr., Criminal Sheriff.

WASHOE COUNTY SHERIFF'S DEPARTMENT, Reno, Nev., January 17, 1972.

Senator John L. McClellan, Committee on the Judiciary, U.S. Senate, Washington, D.C.

Sir: The following comments are provided in response to your inquiry of 21 December 1971. They are primarily an initial reaction, and additional comments will be mailed at a later date. The list of questions contained in your

original mailing has served as the guide for these comments.

No formal state or area program is available for group coverage of death or dismemberment. All local jurisdictions participate in group health and accident plans, but none have additional benefit packages for public safety officers. Costs on the current group plans locally are split 50–50 between the officer and the agency. In no instance is the group insurance death benefit greater than \$5,000.

Local insurance carriers indicate no great problem on writing coverage for officers as to life insurance. It is also indicated that additional premiums are not charged for law enforcement employment. Cost factors of any adequate life insurance program does pose a problem when compared against local sal-

aries.

Programs such as described in Titles II and III would be new for officers of our area. If passage does occur, such programs should not preclude the officer from continuing in local group health plans for his family.

The staff officers of our department feel that the program would be better in our state if control was at the state level. We therefore favor the general

language of Title II itself.

Our experience with the LEAA monies indicate that there is a danger to local independence in federal funds. The original concept of bloc grants has been so altered that individual agencies are back to writing federaleze and to playing grantsmanship. Our state plans under LEAA have first been said to be too specific, and then attacked for being too broad and loose in language.

Comparison of Titles II and III would indicate the directness of Title III would be preferable if only one is passed. Such directness would allow the officer no question as to coverage or the benefit to be paid. This department feels that too much now divides the various categories of public safety officer. One is just as dead whether shot by a robber or killed by the result of a prison riot. We, therefore, favor the single definition of public safety.

It is hoped this information, although general in nature, may be of use. The

inclusion of our department in your inquiry was appreciated.

Sincerely,

ROBERT J. GALLI, Sheriff. By VINCENT G. SWINNEY, Undersheriff. BERKELEY POLICE DEPARTMENT, Berkeley, Calif., January 17, 1972.

Hon. John L. McClellan, U.S. Senate, Washington, D.C.

Dear Senator McClellan: Thank you for the opportunity to comment on your bill S. 2994 with regard to subsidized group insurance plans and death benefits for public safety officers. While the intent of the proposed legislation is laudatory, and considering selfish self-interest should be accepted without reservation, I do not believe we can do so in the best interests of the public.

With regard to Title II, the group insurance subsidization:

1. There is no rationale which an insurance company can logically follow to deny public safety officers group insurance at favorable rates. In California, the members of the Peace Officers Research Association representing over 29,000 officers, have a rate of approximately 40ϕ per thousand while rates for other occupations range between 45ϕ and 55ϕ per thousand.

This favorable rate is brought about by the comparative youth of California officers coupled with a suprisingly low loss ratio. I do not believe this sit-

uation is atypical.

An additional caveat is that under a subsidy program, and based upon our knowledge of currently available low rates, the insurance companies would bid for the contracts at an inflated figure taking into consideration the governmental subvention. This, in my opinion, would do a disservice to the already overburdened taxpayer.

It would seem to me the same result could be accomplished by mandating that insurance companies offer group insurance, on an assigned risk basis if necessary,

at rates comparable to those in California.

2. I would also be opposed to this portion of the act if funding would result in a diminution of the ability by L.E.A.A. to combat crime in our cities.

Title III, the cash award for death or disability:

1. Practically speaking it is impossible to oppose an award of this type, although it would have to be classified as an emotional response to a complex problem in today's society. I would only hope it does not remove a possible restraint from the person who would contemplate an attack on an officer i.e., "His family will get plenty of money if he is killed."

2. The criteria for payment may create some difficulties. For example, is an officer killed by a middle-aged housewife who drives through a stop sign covered?

In most states such an act would be considered as a crime.

I hope this letter will not be misunderstood, your efforts to improve conditions for public safety officers are sincerely appreciated, and unforutnately, all too rare at the legislative level. If I may be of any future assistance, please ask.

Very truly yours,

B. R. BAKER, Chief of Police.

SHERIFF OF ALLEN COUNTY, Fort Wayne, Ind., January 18, 1972.

Re S. 2994, Public Safety Officers and Victims of Crime Act of 1972.

Mr. JOHN L. McClellan,

Chairman, Subcommittee on Criminal Laws and Procedures, U.S. Senate, Washington, D.C.

DEAR SIR: Thank you for your letter of December 21, 1971, along with a copy of the Bill, S. 2994, Memorandum, and Senate Congressional Record of December 11, 1971.

We believe, in our particular circumstances, that the following answers apply

to the Illustrative Questions:

1. The Allen County, Indiana, Police Department is currently covered by a \$15,000.00 Life Insurance Policy and a \$15,000.00 Accidental Death and Dismemberment Policy.

2. Individual costs consist of annual salary deduction (by payroll withholding)

of 3% with Allen County, Indiana, paying the balance.

Rates are comparable. In Fort Wayne, Indiana, police officers have little or no difficulty obtaining life insurance at nominal rates.

4. We fell the Title III Program should supplement the program the Allen

County, Indiana, Police Department has.

This would eliminate the problem of joint financing and would still give the individual departments a large degree of independence, without Federal or State restriction.

We would prefer a direct Federal program as in Title III for reasons given

above, Item 4.

6. Yes. The more one gets involved in Federal programs, the more strings are attached, and the higher the final cost to taxpayers.

7. Title III. 8. Include all "Public Safety Officers".

We will be interested in the final outcome of this bill. Thank you.

Very truly yours,

ROBERT A. BENDER, Sheriff. MARTEN M. PETERSEN, Chief.

MIAMI POLICE DEPARTMENT, CITY OF MIAMI. Miami, Fla., February 11, 1972.

Re Subcommittee on Criminal Laws and Procedures.

Hon. JOHN L. McClellan. Committee on the Judiciary. U.S. Senate.

Washington, D.C.

DEAR MR. McClellan: In reference to your letter of January 12, 1972, I hope the following answers will be of help to the work being done by your Subcommitte.

1. As defined by S. 2994, the City of Miami Police Department has a death and dismemberment program (occupational and non-occupational) with a commercial carrier, Metropolitan Life. The life insurance is in the amount of \$10,000 and the state pays an additional \$10,000 for death in the line of duty.

Benefits are paid provided the death or loss takes place within 90 days after the injury and is not caused in whole or in part from disease, bodily or mental

infirmity, hernia, intentionally self-inflicted injury or any act of war.

2. The City of Miami pays 75% of the premium, the other 25% by the employee. In addition, the City of Miami will pay \$3.28 toward coverage of the employee's dependents.

3. All city employees are covered under the death and dismemberment policy with Metropolitan Life. Only sworn personnel of the police department are eligible for the \$10,000 paid by the State of Florida, for death in the line of duty.

4. At the present time, programs offered by Titles II and III would supplement our present programs. However, if the State/Federal or direct Federal program could offer a better policy, it could be assumed that the City would adopt such a program.

5. The two-stage program of Title II appears to be the most expedient of both proposals. Since the state is already cooperating in an insurance program, it

seems unnecessary to start a conflicting direct federal program.

6. For our organization, there is no long-term danger that would affect independence. If other states do not have a uniformity among small departments

there would be a danger to their independence.

7. Since the police work in conjunction with other "public safety agencies" (fire, and so forth), we feel that the benefits of these Titles should be shared by all "public safety officers" and not just the police. Therefore, Title III would

8. Because other "public safety agencies" must, at times, share the same dangers of the occupation. (i.e. firemen laboring in a riot situation) putting their lives in "police type" jeopardy, all "public safety officers" should be included in

If there is any further way we can be of service to you, please do not hesitate to contact me at any time.

Most sincerely,

BERNARD L. GARMIRE, Chief of Police. CITY AND COUNTY OF DENVER, DEPARTMENT OF FIRE, FIRE PREVENTION BUREAU, Denver, Colo., January 6, 1972.

Hon. John L. McClellan, U.S. Senate, Washington, D.C.

Dear Senator McClellan: This office would be vitally interested in the promulgation of legislation to provide adequate life insurance protection to law

enforcement officers including the members of the fire service.

It is the opinion of the writer that a successful implementation of Title II would depend to a great extent upon a minimum federal participation of 33\\\\%\\%\\ as proposed in S. 2995. Title III proposes to fill a very serious inadequacy in the protection of law enforcement officers and their families. However, the phrase "as a result of a criminal offense" may cause some question in the fire service when the probability of arson enters the picture and months may pass before a specified case can be established or the fire incident may be listed as "undetermined" indefinitely.

I am quite sure that the majority of law enforcement officers feel a need for greater insurance protection for the welfare of their families. Naturally, additional coverage at an attractive premium rate would be most welcome by a large segment of this group. It has been a common situation over the years that men in these professions have been rated as special risks by the insurance industry both

on straight life coverage and also on the double indemnity clause.

At the present time, neither the State of Colorado nor the City of Denver have inaugurated a program of insurance protection assistance for Denver Police or Firemen. To the extent that legislation could be devised to encourage local government financial assistance in conjunction with the federal assistance would make

for more meaningful participation by the membership.

It is difficult to express a preference between Title II and Title III as the proposals do serve two very distinct needs. Title III provides in some degree for a family who has experienced a sudden and unexpected loss of a husband and father. Title II, on the other hand, would be an attempt to assist the law enforcement profession to formulate a program of adequate life insurance coverage with a more realistic approach to the cost factor.

The membership of this Department is most appreciative for your sincere interest in a matter which we feel demands immediate attention and programming.

Many thanks for your consideration.

Very truly yours,

MYRLE K. WISE, Chief.

International Association of Fire Fighters, Washington, D.C., January 5, 1972.

To: Sixty (60) I.A.F.F. locals who have received questionnaires from the Subcommittee of the Senate Judiciary Committee regarding Federal compensation for fire fighters killed or totally disabled in the line of duty.

From: Jack A. Waller, legislative representative.

Dear Sir and Brother: Your Local has recently received copies of S. 2994 by Senator McClellan et al and S. 2995 by Senator Kennedy et al with a brief explanation of the coverage of the Act and a questionnaire to be responded to. Approximately twenty (20) of you have also received some material from Senator Kennedy's office. You are all well aware of the effort that we have put forth to be included in any legislation providing Federal compensation for those Fire Fighters who are killed or totally disabled in the line of duty. It is absolutely imperative that you, as Secretary of your Local, respond to these communications expressing the deep appreciation of your membership for being included in these two important pieces of legislation.

It is not my intention to answer Senator McClellan's questionnaire for you. The following comments on the questionnaire are merely for guidelines and I sincerely hope you answer the questions as they apply to your individual mem-

bership.

Question 1.-CAUTION: Do not include in your answer any pension benefits.

This program is a death and dismemberment coverage only.

Question 2.—This would vary from city to city and must be answered to the best of your ability based upon your own program.

Question 3.—It is my understanding that the cost of insurance coverage for public safety officers varies from community to community. If you are knowledgeable of any case where one of your members has been charged higher rates for his premiums or has been denied any extended coverages, such as double indemnity, dismemberment etc., please convey these instances to the Committee.

Question 4.—It would appear the answer to this question should be that Titles II and III would supplement the current programs. The main reason being that even in our most adequate programs there is still room for improvement and any

additional benefits certainly are needed and deserving.

Question 5.—In answering this question, give no credence to the fact that S. 2994 calls for 75% subsidy by the Federal Government and S. 2995 calls for only 33% subsidy. When the legislation is finally put into a clean bill, the figure would be the same for either proposition. The main difference to the two approaches is that S. 2994 would allow the State through a law enforcement agency commission or fire commission to administer the insurance program and be reimbursed by the Federal Government. S. 2995 would at its very inception be a federally administered program, units voting to participate would all be in one National Program.

Question 6.—This question raises the question of trend toward nationalized

police and fire services, mainly police.

Question 7.—In answer to this question, take into consideration that Title II is accidental death and dismemberment equal to the annual salary plus \$2,000, not to exceed \$32,000, and Title III is \$50,000 for death of a Fire Fighter

because of a criminal act.

Question 8.—Answering this question, it should be kept in mind that for the many past years there has been strong feeling, on the part of those on Capitol Hill, to provide some type of program as embodied in these bills that would provide Federal compensation for police officers, and it has been a struggle to convince a majority of the Committee that Fire Fighters are entitled to the same consideration. It would seem to me that at this time that we should not recommend separate programs for police and Fire Fighters.

I can not over-emphasize the importance of a reply to the Committee before January 21st, especially expressing your deep appreciation to the Chairman and members of the Committee and Staff who have worked so diligently to pre-

pare this type of legislation.

I would also request that you draft a letter to your own two Senators telling them of this communication from the McClellan Committee and including to them your responses to the Committee. Your cooperation is greatly appreciated and it would appear, because of the efforts of all of our membership, that we are taking one step toward improved coverage for our membership.

Fraternally,

JACK A. WALLER, Legislative Representative.

CITY OF SEATTLE FIRE DEPARTMENT, Seattle, Washington, January 6, 1972.

Hon. John L. McClellan, U.S. Senator, Senate Office Building Washington, D.C.

Dear Senator McClellan: I am pleased to forward the following information to you in regard to "death and dismemberment insurance programs" available to public safety officers (fire fighters) of the Seattle Fire Department.

I will first answer the questions contained in the memorandum which ac-

companied your letter:

1. "What programs are presently available within your jurisdiction in the way of death and dismemberment programs for public safety officers as defined by S. 2994?"

A. All Washington State Fire Fighters (paid and volunteer) are covered by the Washington State Law Enforcement and Fire Fighters Retirement System (LEFT). Refer to the attached excerpts from the Revised Code of Washington—(Exhibit I):

RCW—41.26.090. Retirement for Service. RCW—41.26.120, Retirement for Disability.

RCW-41.26.160, Death Benefits.

Firemen contribute 6% of their basic salary; the City of Seattle contributes 6%, and the State of Washington contributes the remainder of the annual

pension fund costs according to State Law (RCW 41.40.071).

B. Seattle Fire Fighters may elect on join the Seattle Fire Department Relief Association to qualify for the following additional sickness, accident and death benefits: \$10,000.00. Active Fire Fighter's death benefit: 2,500.00, Retired Fire Fighter's death benefit; and 7.00, per day rehabilitation pay (after LEFT disability pension benefits expire) to a maximum of six months.

The cost is \$3 per month per active member plus a \$2 per member death

assessment. There is no cost to the City of State.

- C. Group Term Life Insurance Plan for Employes of the City of Seattle. (No dismemberment coverage.) Employes contribute 130 per \$1,000 insurance per month. The City contributes the balance of the premium. Insurance is equivalent to the employe's annual salary with a maxmium of \$26,000. No double indemnity. Refer to copy of descriptive brochure (Exhibit No. 2). This is optional coverage.
- 2. "What costs must be met by those individuals as well as units of government covered by those programs?"

Refer to item No.1-A, B and C above.

3. "How do these insurance costs compare to those incurred by employes other than public safety officers in government and private employment occupations at the same income levels?" Per Item 1 above:

1-A-Washington State Law Enforcement and Fire Fighters Retirement

System. There is no comparable program.

1-B-Seattle Fire Department Relief Association. Again, there is no com-

parable program to this unique association.

1-C-Group Term Life Insurance Plan for Employes of City of Scattle. This group insurance has just recently become available. It is offered to all city employes at equal premium rates (Exhibit 2). It does not, however, cover dis-

Note: In past years the public safety officers (fire fighters and policemen) found it necessary to lobby aggressively for adequate pension and disability coverage because insurance was not readily available at a reasonable cost. Also limited "self-insurance" such as provided by the SFD Relief Association partially filled the gap.

4. 'Should the programs offered by Titles II and III of S. 2994 supplement

or supplant programs currently available to you?"

In my opinion, Title II of S. 2992 should be amended by Senator Humphrey's alternative as outlined in S. 1946 for the following reasons:

A. Senator Humphrey's wording of S. 1946 includes fire fighters in the bill. The wording of S. 33 (Senator Kennedy's bill) does not include fire fighters.

B. Title II as amended by S. 1946 should then supplant our current straight Group Term Life Insurance Plan for the Employees of the City of Seattle in order that we might gain the benefits of dismemberment and double indemnity which are not included in the current Group Insurance coverage.

C. S. 1946, Sec. 13-2 (pg. 16) provides for a referendum vote of law enforcement and fire fighting officers to determine which protection plan they want. Such freedom of choice in my opinion should be offered to the prospective

insured.

D. Title III, in my opinion, should supplement existing coverage offered by the Washington State Law Enforcement and Fire Fighters Retirement System. (Also refer to concluding comments regarding Title III.)

5. "Which would you prefer, the two-stage State or Federal program envisioned by Title II of S. 2994 or a direct Federal program or federal subsidy of an existing state or local program as suggested by A. 33 and S. 1946?"

I prefer Title II with the amendment (S. 1946) as proposed by Senator Humphrey. I compare this to the highly successful veteran's insurance program. Also refer to the answers to #4 above.

6. "Do you see any long-term danger to the independence of local police forces

from the establishment of direct Federal salary-type supplements?"

Definitely not! The very fact that local law enforcement agencies have been unable to cope with crime in our cities led to the Omnibus Crime Control and Safe Streets Act of 1968. The proposed "Victims of Crime Act of 1972" is much needed and progressive legislation.

7. "Should congress decide it would be appropriate to enact either Title II (or the alternatives of S. 33 or S. 1946) or Title III, but not both, which would

you prefer to see enacted?"

Answer: My preference—as the legislation is currently written—would be the enactment of Title II in order that the fire fighters might supplement their current pension benefits with additional life and disability insurance. I feel, however, that Title III might be modified to more appropriately meet the requirements of the fire fighters protection. (Refer to pg. 5.)

Two points, require clarification: (1) My interpretation is that the group life and disability insurance provided under Title II (S. 2994) would be available to fire fighters and payment of death or disability benefits would not be contingent upon whether the commission of a criminal offense resulted in the fire fighters death or disability. (2) Title III, however, would benefit the fire fighter or his dependents only if he were killed or injured in the line of duty as a result

of a criminal offense.

I am enclosing several "Annual Death and Injury Surveys" which are published each year in the International Fire Fighter. They graphically illustrate that fire fighting is the nation's most hazardous occupancy by any comparison of occupational injuries or deaths. Perhaps this information might lead to the broadening of Title III to include coverage for fire fighters who are disabled or killed fighting fires caused by violation of fire codes, building codes, recognized safety standards-or gross negligence . . . as a policeman would be covered if he were killed or injured in pursuit of a criminal.

Finally, I would suggest that Line 11, pg. 31, of S. 2994 be amended to read: "(D) fire fighting and related duties, done voluntarily or otherwise, with or without compensation: . . . " This would more realistically cover the broad

scope of a fire fighters duties. For example:

1. Emergency life-support first aid work.

2. Emergency transportation of critically ill or injured citizens.

3. Heavy rescue work.

4. Natural disaster control: Earthquake, hurricane, storm, flood. 5. Control of hazardous chemical and toxic gas incidents.

6. Civil disturbance operations.

- 7. Marine rescue and salvage operations. 8. Aircraft crash and rescue operations.
- 9. Railroad derailment: rescue, salvage, control of hazardous cargoes.

10. Tunnel or excavation cave-ins, land slides, etc.

11. Freeway (highway) transportation incidents—hazardous cargoes.

12. Post fire salvage operations.

13. Pre-fire surveys of major industries. 14. Routine fire prevention inspections.

15. Arson investigation.

16. Fire and Building Code inspections and enforcement.

17. Operation of heavy equipment.18. High voltage power transmission line incidents.

19. Explosions, building collapse, etc.

20. Fire combat and rescue operation training.

This partial list of emergency incidents which normally involve the Fire Department on a first-in basis may or may not require fire fighting activities, but definitely constitute a serious injury and/or life hazard to the fire fighters involved.

In closing, I wish to say that I appreciate the opportunity to express myself in regard to S. 2994, and I sincerely thank you for your interest in the welfare of the nation's fire fighters.

Very truly yours,

GORDON F. VICKERY, Chief.

EXHIBIT 1

41.26.090 Retirement for service. Retirement of a member for service shall be made by the board as follows:

(1) Any member having twenty-five or more years of service and having attained the age of fifty years shall be eligible for retirement and shall be retired upon his written request;

(2) Any member having five or more years of service, who terminates his employment with any employer, may leave his contributions in the fund. Any employee who so elects shall be eligible at age fifty for a retirement allowance based on his years of service as follows: Five years but under ten years, one percent of his final average salary for each year of service; ten years but under twenty years, one and one-half percent of his final average salary for each year of service; and twenty years and over, two percent of his final average salary for each year of service. Any member selecting this optional vesting shall not be covered by the provisions of RCW 41.26.150.

(3) Any member who has attained the age of sixty years shall be retired on the first day of the calendar month next succeeding that in which said member shall have attained the age of sixty: Provided, That for any member who is elected or appointed to the office of sheriff, his election or appointment shall be considered as a waiver of the age sixty provision for retirement for whatever number of years remain in his present term of office and any succeeding terms to which he may be so elected or appointed: Provided further, That the provisions of this subsection shall not apply to any member employed on July 1,

1969. [1969 1st ex.s. c 209 § 9.]

41.26.120 Retirement for disability. Any member, regardless of his age or years of service may be recommended for retirement by the disability board for any disability which renders him unable to continue his service, whether incurred in the line of duty or not. Benefits hereunder shall not begin for a

period of six months after the disability is incurred.

Any member who believes he is or is believed to be physically or mentally disabled, if such disability has been continuous from discontinuance of service, shall be examined by such medical authority as the disability board shall employ, upon the application of the head of the office or department in which the member is employed, or upon application of said member, or a person acting in his behalf, stating that said member is disabled, either physically or mentally. If examination shows, to the satisfaction of the disability board, that the member should be retired, he shall be retired forthwith: Provided, That no such application shall be considered unless said member or someone in his behalf, in case of the incapacity of a member, shall have filed the application within a period of one year from and after the discontinuance of service of said member. Where an application for disability is filed after the sixth month of disability but prior to the one-year time limit, the member shall be entitled to receive disability benefits to which he is entitled retroactive to the end of the sixth month. [1969 1st ex.s. c 209 § 12.]

41.26.160 Death benefits. (1) In the event of the death of any member who is an active service, or who is retired, his surviving spouse shall become entitled to receive a monthly allowance equal to fifty percent of his final average salary at the date of death if active, or the amount of the retirement allowance such retired member was receiving at the time of his death if retired for service or disability. The amount of this allowance will be increased five percent of final average salary for each child as defined in RCW 41.26.030(7), subject to a max-

imum combined allowance of sixty percent of final average salary.

(2) If at the time of the death of a member retired for service or disability, the surviving spouse has not been lawfully married to the member for one year prior to his retirement, the surviving spouse shall not be eligible to receive the benefits under this section: *Provided*, That if a member dies as a result of a disability incurred in the line of duty, then if he was married at the time he was disabled, his surviving spouse shall be eligible to receive the benefits under this section.

(3) If there be no surviving spouse eligible to receive benefits at the time of such member's death, then the child or children of such member shall receive a monthly allowance equal to thirty percent of final average salary for one child and an additional ten percent for each additional child subject to a maximum combined payment under this subsection, of sixty percent of final average salary. When all the eligible children reach the age of eighteen, the balance of employee contributions, if any, shall be paid to the legal heirs of said member.

(4) In the event that there is no surviving spouse eligible to receive benefits under this section, and that there be no child or children eligible to receive benefits under this section, then the accumulated contributions shall be paid to the

estate of said member.

EXHIBIT 2

GROUP TERM LIFE INSURANCE PLAN FOR EMPLOYEES OF CITY OF SEATTLE

COVERAGE PROVIDED BY SAFECO LIFE INSURANCE CO., SEATTLE, WASH.

To the employees of the city of Seattle

The City of Seattle is pleased to announce that arrangements have been made to provide a group life insurance plan for your exclusive benefit. In order to make the plan available to you on the most favorable basis, a large number of insurance companies were asked to submit bids. The company chosen to provide these benefits was SAFECO Life Insurance Company, which has its home office here in Seattle.

The following paragraphs describe the plan in detail. The program compares very favorably with plans in private industry, both in benefits and in cost to you. Your cost will not be more than 30ϕ monthly for each \$1,000 of benefit. The balance of the cost of the plan is paid for by the City.

For the plan to become effective, a minimum of 75% of the eligible employees must elect to participate. We urge you to complete the attached enrollment card

promptly and return it to your supervisor.

We believe that these benefits are a valuable addition to your personal security.

ELIGIBILITY REQUIREMENTS

Who is eligible for coverage?

All full-time employees, elective and appointive officials, and employees in the Library, Police and Fire Departments and the Transit System will be eligible when they have worked 6 out of 12 consecutive months for the City and have become members of their respective retirement systems. A full-time employee is one working a minimum of 20 hours per week on a regular schedule or a total of 80 hours worked per calendar month. If an employee whose employment terminates for any reason has previously fulfilled his six-month period of employment and has become a member of his retirement, he will be eligible for coverage on the first month following his return to work for the City.

CAN SEASONAL EMPLOYEES OBTAIN COVERAGE?

Employees hired for a seasonal job, for less than the six months, may not enroll for coverage.

WHEN DOES COVERAGE BECOME EFFECTIVE?

An employee's coverage will commence on the first of the month following the date of receipt of his application, provided that the employee submits his application no later than thirty days of the date he first becomes eligible for his retirement system.

The employee's coverage will become effective provided proper application has been made and he is either working or is on paid leave of absence or paid vacation on the first working day of the month. However, if an employee is absent without pay on the first working day of the month in which he becomes eligible, provided he has properly applied, his coverage will start on the first of the month following the date he returns to work.

SCHEDULE OF GROUP LIFE INSURANCE BENEFITS

[Employees who are eligible and properly enrolled will be insured for amounts of group life insurance in accordance with the following schedule of benefits]

	Your	Your
	amount of	monthly
Olassification If your annual comings can	group life insurance is—	contribution is—
Classification If your annual earnings are—	montance is—	12—
\$1,00 to \$1,000	\$1,000	\$0.30
2 \$1,000.01 to \$2,000		. 60
3 \$2,000.01 to \$2,000		.90
4\$3,000.01 to \$4,000		1, 20
5 \$4,000.01 to \$5,000	5, 000	1.50
6\$5,000.01 to \$6,000		1.80
6 \$5,000.01 to \$6,000 7 \$6,000.01 to \$7,000 8 \$7,000.01 to \$8,000	7, 000	2. 10
8 \$7,000.01 to \$8,000		2, 40
9 \$8,000.01 to \$9,000	9, 000	2.70
10	10, 000	3, 00
\$10,000.01 to \$11,000	11, 000	3, 30
12 \$11,000.01 to \$12,000		3, 60
13 \$12,000.01 to \$13,000		3, 90
14 \$13,000.01 to \$14,000		4, 20
15 \$14,000.01 to \$15,000		4, 50
16\$15,000.01 to \$16,000		4, 80
17\$16,000.01 to \$17,000		5. 10
18 \$17,000.01 to \$18,000		5, 40
\$18,000 01 to \$19,000	19, 000	5. 70
20\$19,000.01 to \$20,000	20,000	6.00
21 \$20,000.01 to \$21,000	21,000	6.30
22 \$21,000.01 to \$22,000		6. 60
23\$22,000.01 to \$23,000	23, 000	6.90
\$23,000.01 to \$24,000	24, 000	7. 20
25\$24,000.01 to \$25,000	25, 000	7.50
26 \$25,000,01 and over	26, 000	7. 80

Note.—Annual earnings are basic wages and do not include overtime.

Can coverage be continued during sick leave and vacation?

In the case of employees on paid sick leave or vacation, payment for their coverage during this time will be made by the employee with the City contributing its appropriate balance. Employees who are on unpaid leave of absence or are laid off may continue their coverage by paying the entire cost through their department for a period not to exceed six months.

When does coverage terminate?

An employee's coverage will terminate the last day of the month during which the employee separates from City service; however, when the last payroll of the month from which deduction for coverage is made occurs prior to separation, coverage will not terminate until, the last day of the month next succeeding separation.

Benefits and contributions are reduced to 50% of the above amounts if you are age 65 or over when first becoming insured: Benefits and contributions will decrease to 50% of the above amounts on the first of the month following the attainment of age 65, if you have been insured prior to age 65.

Increases or decreases in amounts of insurance because of a change in your earnings classification will be effective on the first of the month following the change in classification.

DESCRIPTION OF THE PLAN

Benefits

The amount of benefits shown under the Schedule of Benefits will be paid to your beneficiary upon your death from any cause at any time while you are insured.

Beneficiary

The beneficiary to whom benefits will be paid shall be the person named by you on your enrollment card. You may elect to have the benefits split between two or more beneficiaries; or, you may elect to name one or more beneficiaries with one or more beneficiaries on a contingent basis; you may elect to have the beneficiaries receive equal shares of the benefits or you may elect that they receive unequal shares of the benefits; and, you may elect to have the benefits paid in a lump sum or in installments.

Your beneficiary may elect to take the benefits in a lump sum (unless you

direct otherwise) or in installments.

You may change the beneficiary at any time by filing a new enrollment card with the City. Permission of the previous beneficiary is not necessary. If you fail to name a beneficiary or if the beneficiary named by you dies before you do, the benefit will be paid in accordance with the policy.

Right to an individual policy (conversion)

Upon severance of your employment of your retirement from the City, you may select a policy of life insurance on any of the forms of policy customarily issued by SAFECO Life Insurance Company (except term insurance) in an amount up to the amount of your group life insurance. No medical examination or evidence of insurability is required. You are also entitled to convert that portion of the insurance terminated as a result of reaching 65 years of age.

This right must be exercised and the required premium paid within 31 days following termination of your Group Life Insurance with the City. The premium for the individual policy will be based on your age and occupational classification

at the time your insurance is converted.

Extension of Insurance

If you die during the 31-day period following the termination of your insurance which is also during the period you have the right to an individual policy, your full benefit will nevertheless be paid to the beneficiary.

ENROLLMENT INSTRUCTIONS

An enrollment card is required from every employee eligible for the program whether or not you wish to participate. An enrollment card is attached to this brochure. If you want to participate in the plan, please complete and sign the upper portion of the card. If you do not wish to participate, please fill in your name and department on the upper portion of the card, and sign the lower portion of the card under "Waiver of Right of Participation".

The card should then be turned in to the Personnel Division in your department.

EXHIBIT 3-A

[International Fire Fighter, November 1971]

ANNUAL DEATH AND INJURY SURVEY OF THE PROFESSIONAL FIREFIGHTER IN THE UNITED STATES AND CANADA

It is sad to report that "the most hazardous occupation" once again falls to the fire fighting profession. Last year 115 paid professional fire fighters died in the line of duty. In 1969, the previous year, 104 fire fighters per 100,000 workers) were killed on duty.

Until 1969, fire fighting had followed mining and quarrying as the most hazardous occupation, according to statistics released by the National Safety Council,

the FBI's Annual Crime Report and Fire Administration records.

President McClennan called the high death toll among U.S. and Canadian fire fighters a "tragedy of epic proportions. My heart goes out to the widows and children of these brave men who have given their lives to save others. They are martyrs in the truest sense of the word."

President McClennan said "everything humanly possible must and will be done to make our profession safer. This will be one of the primary goals of the National Commission On Fire Prevention and Control." He is a Vice Chairman of

the 22-member Commission.

Fire fighters deaths per 100,000 workers topped mining and quarrying in 1970 by 15 deaths. In 1969 104 fire fighters died to 100 deaths in mining and quarrying.

Although a policeman's death seems to generate much more publicity than fire fighters, the statistics show that fire fighting is perennially considerably more dangerous than police work. In 1969 there were 104 fire fighter deaths per 100,000 to 64 policemen.

Over a ten year period, 1960 to 1970, there have been 790 fire fighters killed in the line of duty as compared to 707 policemen during the same span. Fire fighter injuries on-the-job in 1970 per 100 men were just double that of policemen—38 per 100 for fire fighters and 18.9 injuries for every 100 policemen.

In 1970 there were 38,583 fire fighters injured. Over 11,000 of those injured, or better than one in four, lost time from work because of their injuries.

In addition to deaths and injuries on the job, fire fighters are particularly vulnerable to heart and lung diseases strictly because of the nature of their job. Recent statistical studies have proven beyond doubt that the risk of heart disease among fire fighters-and indeed the death rate from all causes-is much

higher than is attributable to the general population.

The smoke inhalation problem is directly related to a rapidly increasing number of occupational deaths among fire fighters due to lung diseases. In 1969 there were only 23 deaths from lung disease. In 1970 there were 126 fire fighter

deaths due to lung diseases—a nearly sixfold increase!

The fire fighter must often cope with concentrations of carbon dioxide and carbon monoxide gases that are regularly present in smoke, along with a variety of other often more dangerous gases. These may be formed by the process of combustion or liberated from industrial storage and processing equipment. As the complexity and number of synthetic building and textile materials increase, so do the number and toxicity of the gases formed by their combustion. These gases may damage the lungs themselves or may use the lungs merely as a port of entry into the body and produce pathologic changes elsewhere. Toxic gases, incidentally, accounted for nearly 1,500 lost-time injuries last year, or 13 percent of the total lost-time injuries during 1970.

Besides smoke and fire and collapsing buildings, the fire fighter has another formidable enemy he must cope with in an increasing number of incidents—the unseen enemy who pulls the false alarm. Over 200 fire fighters were injured in responding to or returning from a false alarm last year. Traffic accidents in-

volving fire apparatus also accounted for 1,305 injuries.

AREA OF INJURIES

In other areas, fire fighters were injured in the following categories:

Civil disorder injuries—195 (reported).

Injuries sustained by individual violence—113.

Injuries during training-1,223.

In spite of the documented fact that fire fighting is the most hazardous occupation in the world, many city officials in towns and cities in certain areas of the U.S. and Canada are trying to reduce their fire departments, thus further increasing the hazards of our profession.

'Although the fire fighting profession is considered and recognized as the most dangerous occupation, it is imperative that all safety measures be carefully observed and every possible means must be initiated to reduce the number of

deaths and disabling injuries," President McClennan said.

"It is of deep concern to this union that many fire department personnel rosters are not being brought up to full strength," he said. "One man can hardly be expected to do the work of two or three men at a fire without proportionately in-

creasing the possibility of his death or injury.

"Officials in many communities must also come to the realization that fire fighters must be supplied with proper and adequate protective clothing and equipment to meet the demands of our profession to protect life and property.'

LONG HOURS CITED

President McClennan also stressed that "the long hours fire fighters are required to work in many communities must and have to be reduced if a man is to be in proper mental and physical condition to combat the dangers of smoke and fire. Safety committees and programs, organized and initiated by IAFF affiliates, can readily bring these factors to the attention of local communities," he stated.

In view of the valuable statistics compiled on these pages, the IAFF Department of Research and Education feels that it is of the utmost importance that affiliated local unions immediately report all injuries through official channels and to the responsible officer of their local union for the protection of themselves and their families.

Each local should keep injury records in a permanent file since it can never be known for sure when a "temporary" disability of a fire fighter will recur and it may be necessary to have documented proof that he was previously injured.

MORE DATA NEEDED

Local unions should also maintain data on the number of fire fighters killed, or who have died later as the result of their work, the causes of death, the economic and financial status of dependents and if proper compensation was paid. Similar data should also be kept on record for injured fire fighters.

The safety committees of local unions should develop safety thinking among

rank and file members and stimulate members to proper safety measures.

Local affiliates should also keep current with municipal and state safety codes and work in close harmony with central labor bodies and the National Safety

Council in developing safety procedures.

To protect the physical welfare of its rank and file members, the IAFF has taken positive steps to keep abreast of safety developments by establishing fire fighter committees on occupational diseases, and safety and radiation hazards. The International has taken a vital interest in having safety statutes written regulating the transportation of flammable materials in interstate commerce. This was a topic discussed at the recent Notre Dame Symposium and outlined in the recently published proceedings on this symposium.

SAFETY CONSCIOUS

The International Union and its local unions, as records prove, have faithfully represented rank and file members at the negotiating table in continuing efforts to better the salaries and working conditions of fire fighters. And even more important, this union stands ready to do the same to promote and activate safety programs and research into better equipment in order to reduce the death and injury toll among fire fighters everywhere.

EXHIBIT 3-B

[International Fire Fighter, November 1971]

FIRE FIGHTERS' DEATHS IN LINE OF DUTY, 1960-70

The dangers of fire fighting continue to increase as deaths and injuries during

1970 climbed to record highs.

The 1970 Death and Injury Survey reveals that 115 fire fighters died in the line of duty, as compared to 104 deaths in 1969. The information on fire fighter deaths and injuries in the survey was obtained from fire chiefs throughout the United States and Canada.

The following charts graphically reflect the Death and Injuries of fire fighters, as compared with other occupations. The statistics were provided by Fire Department Administrators' records, the Annual Crime Report of the F.B.I. and the National Safety Council's Accident Facts.

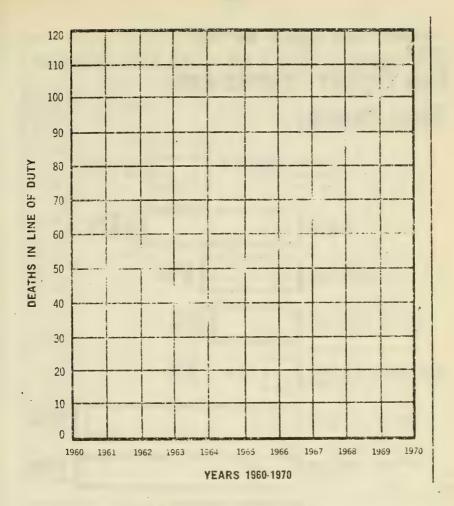
A total of 656 fire departments, representing 100,000 fire fighters, responded to the Death and Injury Questionnaire. This is significant because all comparisons

are based on 100,000 workers.

Some efforts have already been made to reduce the tragic losses from fire. Much work, however, remains to be done. On the Federal Government level, President Nixon has recently appointed 22 members to the newly created National Commission on Fire Prevention Control. State and Local Governments however, must meet their responsibilities in reducing fire losses by providing adequate manpower and equipment, effective fire codes, and occupational and safety programs consistent with the standards set by the U.S. Secretary of Labor under the Occupational Safety and Health Act.

While fire fighter deaths are increasing at an alarming rate, it should be pointed out that civilian deaths from fires are also increasing. The National Fire Protection Association reported that 12,200 civilians died from fires in 1970. The NFPA also reports that the problem may become worse as increased urbanization and population density increases the potential for destruction by fire. Clearly, we must

do more to reduce these tragic losses.



Death and Injury Survey

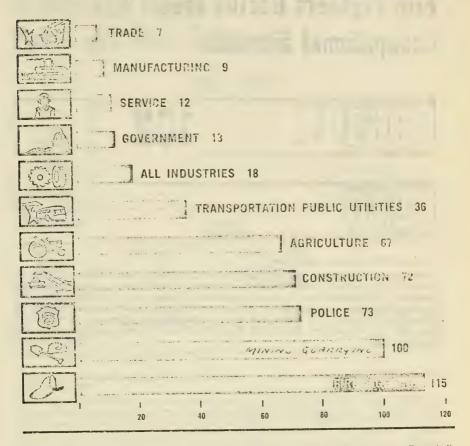
Fire Fighter Injuries and Their Severity

	Percentage of Percentage of Total Injuries.
BURNS	14%
TOXIC GAS	9%
HEAT EXHAUSTION	3%
BUILDING COLLAPSE	51% 3%
CUTS	19%
SPRAINS	29%
FALLS	10%
OVEREXERTION	6%
MISCELLANEOUS	The state of the s

Source: Fire Administration Reports.

There were 38,583 injuries sustained by fire fighters in 1970. This rate of 38.6 per hundred workers is greater than in 1969 and is in sharp contrast to the experience of all other workers. All categories of injury showed an increase over previous years and more than 11,000 of these injuries resulted in lost time.

Accidental Work Deaths Per 182,869 Workers-1970



Sources: "Accident Facts," National Safety Council—"Uniform Crime Reports," F.B.I.—Fire Administration Reports.

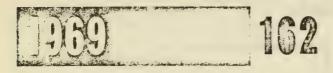
The trend for all industries shows a continued decrease in the number of accidental deaths per 100,000 workers from 1940 to 1970. In the same period of time public safety personnel deaths continued on the upward spiral.

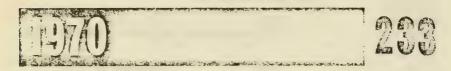
Fire fighter accidental deaths increased by 11 during 1970, while in the same

period of time police deaths increased by 9.*

^{*}Police—50 "killed by felons"; 23 "killed in accidents" on the basis of each 100,000 law enforcement reporting.

Fire Fighters Deaths from Gooupational Diseases



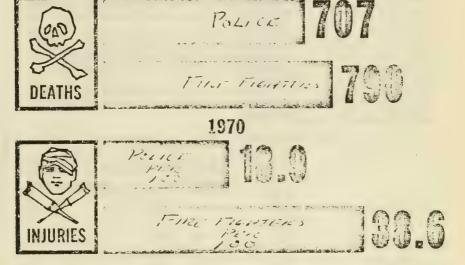


Source: Fire Administration Reports.

Occupational diseases claimed the lives of 235 fire fighters during 1970, compared to 162 deaths in 1969. There were 96 deaths from heart and cardiovascular diseases; 126 deaths from lung and respiratory diseases and 11 deaths from occupational diseases. An additional 463 fire fighters left the fire service because of occupational disease. Of these, 310 were cardiovascular diseases; 80 were diseases of the respiratory tract and the balance of 73 were miscellaneous, job related.

Deaths and Injuries Police and Fire Fighters

1960 - 1970



Source: Uniform crime report—1970 issued by John Edgar Hoover, F.B.I. Fire Administration Records.

Death and injuries for both police and fire fighters have increased sharply during the past several years. The police deaths listed above are compiled from F.B.I. surveys covering approximately 200,000 police officers annually. The fire fighter deaths listed are compiled from surveys covering approximately 100,000 fire fighters. Police injuries were up from 16.9 in 1969 to 18.9 in 1970. Fire fighter injuries were up from 37 in 1969 to 38.6 in 1970.

₹¥HIBIT #3-B Death and injury continue to plague fire fighters in all parts of the United States and Canada as the tragic toll of those killed in the line of duty rose to an all-time record high in 1969. The 11th Annual IAFF Death and Injury Survey shows 104 fire fighters died in the line of duty last year.

For several years mining and quarrying workers had the most deaths of any group with 100 reported for each 100,000 workers in 1959. The figure is still 100 for each 100,000. Now this dreadful distinction is held by fire fighters.

The IAFF Survey also reports that 37 out of every 100 fire fighters were injured last year. These injuries included those sustained from over-exertion, sprains and strains, accounting for 32 percent of the total, as well as burns, falls, cuts, toxic gas and building collapse.

There were 162 fire fighters deaths reported from occupational diseases, with diseases of the heart leading with 117.

A total of 544 fire fighters left their departments because of physical impairment from occupational diseases and on-duty injuries.

These figures are minimum ones because in many departments detailed records are not kept and the figures requested could not be furnished.

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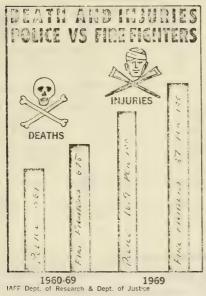
VIOLENCE IN 1960'S ADDS NEW HAZARDS FOR FIRE FIGHTERS

The decade of the Sixties produced new hazards for fire fighters and deaths and injuries continued to increase. From 1560 to 1969,675 fire fighters died protecting the lives of people and their property. In 1969 alone there were 104 deaths and 37,301 injuries.

Civil disorders in recent years have extracted a growing toll among fire fighters. Two fire fighters were killed in the Detroit riots. Another was killed in Watts, and still another killed in Newark. From 1967 to 1969, over 600 fire fighters were injured during civil disorders.

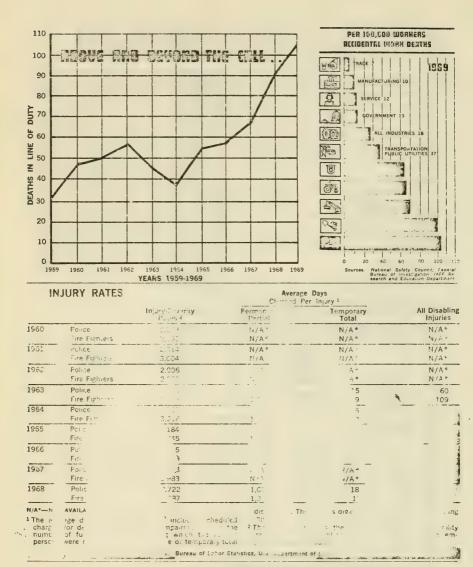
At its worst, the harassment of fire fighters approaches guerrilla war. Rocks and bottles are commonplace. Molotov cocktails have been thrown at trucks. Windshields have been shattered by sniper's bullets. Fire fighters entering a burning building have had to dodge heavy objects huried from roof tops. Arsonists lure fire fighters out of position with false alarms before applying their torches, and then set booby-traps, loosen fire escapes, weaken stairs and sheets of cardboard are sometimes placed over holes in floors. They have been lured up dead-end alleys to fight fires started in trash and deserted automobiles and then met with a fusillade of rocks and bottles.

Thus, an already hazardous job has become more hazardous.





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INJURY RATES

charged per injury and percent of disabling in- available from the Bureau as we went to press. juries resulting in death, permanent impairment

The Bureau of Labor Statistics issues figures and temporary total disability, fire fighters exon injury rates for many industries and for gov- perienced longer disabilities and incurred more ernment employees, including police and fire injuries than police, except during the years fighters. In the categories of average days 1966 and 1967. Figures for 1969 were not

EXHIBIT 3-C

[International Fire Fighter, November 1969]

RECORD 92 FIRE FIGHTERS DIED IN LINE OF DUTY DURING 1968

The extremely hazardous nature of the fire fighter's occupation is again emphasized in the Annual Death and Injury Report which shows that 92 Fire Fighters died in line of duty in 1968. This compares with 68 who died in line of duty in 1967. Both figures, as well as all other fighters on injuries of Fire Fighters, are from the questionnaires returned by the Chiefs of Fire Departments.

Not only are more deaths reported than in the previous year, but the number

of injuries has also increased substantially.

1967	59,	724
1968	 63,	346

In the questionnaire for 1968 reports were asked on "fire injuries," and the following definition* was given from the NFPA:

"A fire injury is one suffered as the result of a fire, that requires (or should require), treatment by a practitioner of medicine within one year of the fire or explosion (regardless of whether treatment was actually received)."

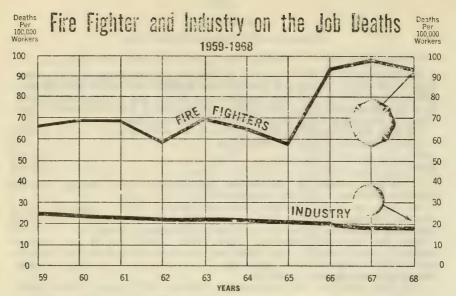
With this very strict definition, which takes account only of those injuries suffered "as the result of a fire," there were 49,736, an increase of 3,080 over the previous year, when the term "minor injury" was used which included any injury sustainted by fire fighters on the job.

Lost time injuries in 1968 increased by 1,562 over 1967 to a new high of 14,610.

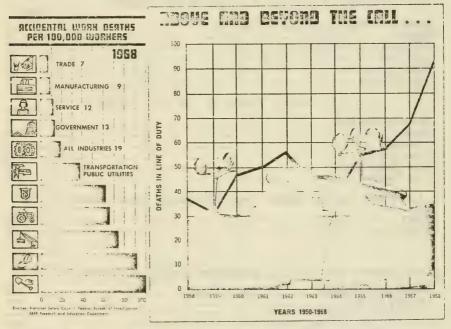
Percentage of Causes of Fire Injuries	Percent
Building Collapse	5
Burns	36
Explosion	2
Toxic Gas	25
Heat Exhaustion	12
Over-Exertion	20
Demonstrate of Clause of Lant Dime Industra	
Percentage of Causes of Lost Time Injuries	Percent
Building Collapse	
Burns	21
Explosion	4
Toxic Gas	22
Heat Exhaustion	20
Over-Exertion	26
Active Fire Fighters' Deaths From Occupational Diseases While On I	Duty
recire Fire Fighters Deaths From Occupational Diseases white on I	July
Heart	
Lungs	22
	135
	199
Fire Fighters Who Left Fire Department Because of Physical Impair	ment
Occupational diseases	266
On duty injury	
Della IE Bull ID at 1 0 0 at 1 Disco	531
Retired Fire Fighters' Deaths from Occupational Diseases	383

There were 123 police killed in line of duty in 1968. The Crime Report, from which this figure is taken, lists 211,000 municipal police officers in 1968. This gives a rate of 62 deaths per 100,000.

^{*}At the 29th IAFF Convention, in 1968, a resolution was adopted which requires the International to endeavor to have adopted a standardized form for reporting deaths and injuries. We are in the process of doing this; the first step being the use of common definitions. In this survey we use the NFPA definition of a "Fire Injury."



Sources: IAFF Research and Education Dept.; Illational Safety Council



NOVEMBER, 1969

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EXHIBIT 3-D

ANNUAL DEATH AND INJURY SURVEY

STUDY REVEALS FIRE FIGHTERS SUFFER RECORD NUMBER OF INJURIES ON DUTY

The death and injury survey for 1967 reveals the astounding fact that 82.5 percent of the fire fighters in the survey suffered some form of injury during the year.

There seems little doubt that this stems in large part from the riots which raged in several metropolitan areas during the summer of 1967 and subsequent harassment.

There were 96 accidental deaths per 100,000 fire fighters in 1967, up 3 per 100,000 over 1966, while the deaths in all industries moved down from 20 to 19.

The survey was conducted by the Research and Education Department. A questionnaire was sent to every fire department in the United States and Canada where the IAFF has local unions. The response to the survey represented a total of 72,336 fire fighters, approximately 55 per cent of the IAFF membership.

The responding fire departments reported a total of 68 deaths in line of duty with the causes unspecified in 38 instances. Specified causes were: building col-

lapse, 4; burns, 2; toxic gas, 5; traffic, 9; electrocution, 3; heart attack, 7.

The 68 line-of-duty deaths came from 55 per cent of the IAFF membership. If extended to the entire membership, on the same percentage of incidence, the total on-duty IAFF deaths would be 124.

Police on-duty deaths, as reported by the FBI, totalled 123 last year.

From 1960 to 1967, there have been 411 police killed in line of duty and 519 fire fighters. The FBI reports that there are 200,000 police officers in the nation. The NFPA, the IAFC, and the International Fire Protection Directory all give 160,000 as the number of full-time paid fire fighters in the United States. The "kill rate" for fire fighters is, therefore, considerably higher.

Deaths reported from heart, lungs and other service-connected causes totalled 182. There were 102 heart disease deaths, 21 lung disease deaths and 59 other

non-specified deaths.

Occupational diseases caused 291 fire fighters to leave their departments and on-duty injuries caused 295 to leave. This makes a total of 768 men lost from their departments to injuries, occupational diseases and line-of-duty deaths.

In order to use the figures on deaths and injuries as revealed by the survey of fire departments, it is necessary to compare them with figures for other occupations. The National Safety Council issues "Accident Facts" annually in August The Council's figures are based on deaths per 100,000 workers. Thus, with the fire fighter deaths in line of duty weighted so as to compare, it is revealed that accidental deaths of fire fighters are 96 per 100,000. Next to mining and quarrying, fire fighting is the most hazardous of all occupations surveyed. The average of all industries surveyed is 19 deaths per 100,000 workers. (See Chart No. 1.)

Does the atmosphere in which a man works have a bearing on the incidence of cardiovascular disease and death? It would appear that such is the case, since fire fighters lead a list of nine selected occupations with 54.6 of all fire fighter

deaths stemming from cardiovascular diseases.

On the other hand, lumbermen, despite the fact that theirs is also a strenuous occupation, have a cardiovascular death incidence of only 32 per cent. Lumbermen work in the clean forest air. These figures, seen in Chart No .2, are derived from the U.S. Department of Health, Education and Welfare. The mortality by age groups is broken down in the following table:

Percentage of cardiovascular disease deaths reported by U.S. Dept. of Health,

Education and Welfare with mortality rates according to age groups.

	Age	Percentage
Police	45-54 55-59 60-64 45-54 55-59 60-64 45-54 55-59 60-64	36. 5 29. 7 29. 9 35. 4 26. 1 26. 5 28. 6 25. 7

The survey reveals that there were 46,656 minor injuries and 13,068 lost-time

injuries sustained during 1967.

The term "minor injury" really is a misnomer. No injury is "minor" to the man injured. Such injuries will ordinarily include cuts, bruises, smoke inhalation, burns and other serious injuries. An injury is ordinarily termed "minor" when it does not result in the injured party taking sick leave. Actually, this fact is inferred by the words used to describe the other category of injuries, "lost time injuries." There were 13,068 of these reported during 1967.

All combined, there were 59.724 injuries reported by the 72,336 fire fighters

covered by the survey; 82.5 per cent suffering some form of on-duty during the

year.

Police officers reported 10,770 assaults with resultant injuries to the officers, with 200,000 reporting. This is an injury rate of 5.4 per cent. Fire fighter injuries, 13,068 injured out of a total of 132,000, represented an injury rate of 9.9 per cent; almost double the police injury rate.

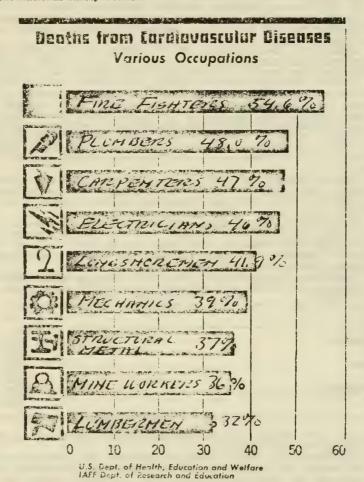
The reports of police officers' assalts with injury do not specify that the officers injured were incapacitated for further duty by such injuries. In order to be fair in offering comparisons, it must be assumed that 'assaults with injury'

is a classification similar to lost time injuries" for fire fighters.

The reports did not list any fire fighter deaths from gunshot wounds, although several fatal shootings of fire fighters during the 1967 summer riots were reported

in the public press.

Police statistics were taken from the Uniform Crime Reports of the Federal Bureau of Investigation. Deaths from cardiovascular diseases were from the U.S. Department of Health, Education and Welfare, Accidental on-the-job deaths were from the National Safety Council.



ACCIDENTAL WORK DEATHS PER 100,000 WORKERS TRADE 8 10 MANUFACTURING SERVICE 12 **GOVERNMENT 13 ALL INDUSTRIES 19** TRANSPORTATION PUBLIC UTILITIES 100 0 60 80 100

Sources: National Safety Council; Federal Bureau of Investigation; IAFF Research and Education Department.

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EXHIBIT 3-E

HEALTH HAZARDS OF SMOKE INHALATION

(By Donald M. Thomas, M.D.)

Every year, many firefighters suffer illness, injury and even death, as a result of what has always been called "smoke inhalation". Actually this term is a very poor description of what has happened, for men who have collapsed, have diffi-

culty breathing, or show related symptoms on the firegrounds may be suffering from a variety of conditions, some of which are not the result of smoke exposure at all.

Smoke is a suspension of small particles in hot air and gases, and thus may be said to have a particulate fraction and a gaseous fraction. The particles consist of carbon, and are coated with certain combustious products such as organic acids and aldehydes. The gaseous fraction has an extremely variable composition. Carbon monoxide and carbon dioxide are always present and constitute the bulk of this fraction, but a wide variety of other toxic gases, may also be present. These may be formed by the combustion process or leak from commercial

processing or storage equipment.

The particulate and gaseous fractions combine to exert a large space occupying effect, and can fill an enclosed space at the expense of air. A firefighter entering such an area without an oxygen supply will suffer from oxygen lack, or hypoxia, which effects all organs and systems of the body, but primarily the brain. Loss of judgement and mental confusion progressing to convulsions, coma, and death may result under these circumstances. Filter-cannister of "all service" gas masks afford no protection under these conditions. Instead, firefighters should use self-contained breathing apparatus or ventilate such smoke-filled

spaces to admit oxygen before they enter.

As from this space occupying effect, the particulate fraction produces a number of other effects which are more unpleasant than dangerous. While small by most standards, the majority of smoke particles are too large to be inhaled into the lungs. The nose, mouth, and throat constitute an efficient filtering mechanism which traps the particles locally. Because they are coated with irritating substances, the trapped particles produce a temporary inflamation of the eyes, nose, and throat. The resulting discomfort has been experienced by every firefighter. Particles trapped in the mouth and throat will be swallowed and irritate the stomach, often to the extent that nausea or vomiting occur. This unpleasant symptom can usually be relieved promptly by any of the common antacid or "acid indigestion" remedies such as Maalov, Gelusil, Tums, bicarbonate, and so on. Many departments stock their first aid kits with medications of this type so they will be available on the firegrounds.

The gaseous fraction of smoke is far more dangerous than the particulate fraction. The nose, mouth, and throat are not capable of filtering out gases, so that they enter the lungs freely when inhaled and may produce effects on the lungs themselves, or be absorbed by the lungs to produce toxic effects elsewhere

in the body.

Carbon monoxide is a good example of a gas which enters the body by way of the lungs, but exerts toxic effects on other structures. This gas combines with the red blood cells very rapidly, and when these cells are occupied by carbon monoxide they cannot perform their normal duty of carrying oxygen. Since carbon monoxide combines with red cells two hundred times more easily than oxygen does, the inhalation of a very low concentration of carbon monoxide can quickly displace all oxygen from the cells. Hypoxia, with the same symptoms described earlier, is the result of this occupation of the oxygen transport system by undesirable passengers.

Once carbon monoxide has occupied the red blood cells, many hours are required for removal, and repeated small exposures to the gas tend to have a cumulative effect. Thus symptoms of carbon monoxide poisoning appear as often in men who have made runs to three or four small working fires in a single day, as

in men exposed at a multiple alarm fire.

Another gas which enters the body through the lungs to produce damage in other parts of the body is hydrogen cyanide. This deadly gas is used as a fumigant in grain elevators, flour mills, and similar occupancies, and is firmed when wool, silk, and certain plastics such as melamine resins are burned. These hard, shiny plastics are used extensively as electrical insulators, and are found throughout the interior of aircraft cabins as hat racks, hand rails, and wall panels.

In addition, an endless number of gases and vapors with a wide variety of toxic effects may be encountered by firefighters when these substances are released from storage and processing equipment during fires in commercial occupancies. Even though many of these are liquids under ordinary conditions, the heat of the fire

may turn them into easily inhaled gases.

Damage to the lungs themselves may result from exposure to a group of gases and vapors called pulmonary irritants. This lung damage may be severe enough

to produce permanent disability and even death. The classic examples of pulmonary irritant gases are chlorine, phosgene, nitrogen dioxide, sulphur dioxide, and ammonia. Upon entering the lungs, these agents react chemically with water to produce strong acids or alkalis. A violent inflamatory response takes place with destruction of the lung tissues, followed by extensive formation of scar and fibrous tissue.

Until recently, firefighters encountered these gases only during leaks at chemical factories, refrigeration plants and similar occupancies. However, the widechanged the picture. Many of the plastics prosynthetic materials for furniture, floor and wall covering, textiles, and even building materials has changed the picture. Many of these plastics produce large volumes of pulmonary irritant gases when burned. For example, polyvinyl chloride is used extensively in furniture nowdays, both in the foamed plastic stuffing and in the covering. Burning one pound of this material produces seven-tenths of a pound of chlorine, phosgene, and hydrogen chloride—all potent pulmonary irritants. Other examples listed in Table I.

TABLE 1.-PRINCIPAL TOXIC COMBUSTION PRODUCTS OF COMMON SUBSTANCES 1

Substance	Pulmonary irritants	Other toxic gases
Wood, cotton, newspaper	Acetaldehyde, formaldehyde	Acetic acid, methane, formic acid.
Petroleum products		Similar to wood, etc.
Wool, silk	Ammonia	Hydrogen sulphide, hydrogen cya- nide.
Nitrocellulose film	Oxides of nitrogen	Similar to wood.
Cellulose ascetate film	None	Do.
Polyester resins	Hydrogen chloride	
Polyurethane foam	Hydrogen chloride	Hydrogen cyanide.
Polyvinylchloride	Hydrogen chloride, phosgen, chlorine	
Polyfluorocarbons (e.g. Teflon)	Octafluorisobutylene	
Phenolic resins	Ammonia, formaldehyde	Do.
Melamine resins	Ammonia	Do.
Rubber latex form, neoprene foam	Unknown, but exposed rats die from pul- monary edema.	

¹ Carbon monoxide and carbon dioxide are produced in all cases.

Since virtually every structure today contains plastics capable of producing lung-damaging gases when burned, the firefighter is at risk in almost any fire. The presence of these gases in smoke can usually be recognized by their very acrid odor, and by the strong sensation of choking produced when one attempts

to breathe in an atmosphere containing them.

The best protection against these agents is the routine use of self-contained breathing apparatus by every firefighter. When properly functioning, this equipment affords complete protection to the wearer against these or any other gases which may be present. When any man without breathing apparatus is exposed to more than a few breaths of this "choking smoke" from burning plastics, he should receive prompt medical attention. There is usually a period of one to six hours between exposure and the inset of severe symptoms, and treatment is most effective if given during this "quiesient phase." Once difficult breathing, chest pain, cyanosis, bloody sputum, and other symptoms appear, it may be too late. One of the rapidly acting, anti-inflammatory steriod hormones should be given intravenously before the symptoms appear.

In addition to protecting themselves by the use of self-contained breathing apparatus, firefighters should make every effort to determine the nature of all synthetic materials involved in a fire, and should attempts to determine the identity of any chemicals which may have leaked or have been spilled. Should anyone then become ill as a result of exposure, the physician treating the victim should be given this information. The physician needs to know what he is deal-

ing with in order to give prompt and proper therapy.

From the above, we can see that exposure to smoke and its various components can harm the firefighter in many ways. Oxygen lack can occur from the space occupying effect of the smoke, as well as from carbon monoxide poisoning. Smoke particles may sting the eyes, nose, and throat and be swollowed to produce nausea and vomiting. An endless variety of gaseous combustion products or gases leaked from tanks may damage the lungs, or enter the body by way of the lungs to produce toxic effects throughout the body.

As if these were not enough, other casualties occur on the firegrounds which may mimic some of the above conditions and cause confusion in diagnosis and

delay in treatment. These casualties are not produced by smoke but by those great imposters: Hyperventilation, heat, and heart attack.

Hyperventilation is a condition where the patient breathes too deeply or too rapidly. This results in the exhalation of too much carbon dioxide, and a change in the degree of acidity of the blood so that it becomes less acid and more alkaline. This change effects the function of the nervous system to produce a numb feeling of the face, hands, and feet, twitching of the arms and legs, muscle cramps, and even convulsions. The excessive breathing may be caused by fear and anxiety, or may be an overcompensation for a period of partial or complete breath-holding, as when a man tries to avoid inhaling too much smoke while inside a fire building. When he emerges into fresh air, he over-breaths and collapse may result. A hyperventilating individual should be made to re-breathe his exhaled air from a paper bag or similar object placed over his face. This will return carbon dioxide to his system and relieve his symptoms promptly. A resuscitator will only increase the depth of his breathing and make him worse. Those firefighters who repeatedly respond to the tensions of the firegrounds by hyperventilating should seek another occupation.

While doing strenuous work in heavy protective clothing in a hot environment, heat build-up becomes a serious problem to the firefighter. Water loss through perspiration under these conditions may rapidly become great enough to produce shock from reduction of the volume of fluids in the body. This tendancy to collapse is enhanced by hyperventilation as the body attempts to cool itself by a mechanism similar to that of a dog panting on a hot day. The resulting collapse and labored breathing may cause the victim to be labelled as a smoke casualty when he is not. If overheated individuals have stopped sweating or show an increase in body temperature, they require hospital treatment. Less severe cases can be treated at the scene by removing heavy clothing, cooling them by dousing them with water, and restoring body fluids by having them drink plenty of water, which should be at tap temperature. Ice water should be

avoided.

Finally, heart attacks, are another cause of collapse and labored breathing that may lead to an incorrect diagnosis of smoke inhalation. The conditions of the firegrounds, with strenuous work, heat, lack of oxygen, excitement, fear, and anxiety are all calculated to induce heart attacks in susceptible individuals. An electrocardiogram should be done routinely on all men over 40 who collapse on the firegrounds, and in any man regardless of age, who has prominent chest pain or other suspicious cardiac symptoms. The dangerous fireground conditions that precipitate heart attacks are not likely to change, but the firefighters can do much to protect his heart by maintaining good physical condition, and by avoiding obesity and smoking.

It should be obvious now that we cannot continue to say that every man who shows difficult breathing, collapse, and other symptoms on the firegrounds was "overcome by smoke." He may be suffering from a variety of conditions which require accurate diagnosis and specific treatment, and which deserves vigorous

preventive efforts.

CITY AND COUNTY OF SAN FRANCISCO, SAN FRANCISCO FIRE DEPARTMENT, San Francisco, Calif., January 6, 1972.

Attention: Mr. G. Robert Blakey, Chief Council.

Mr. JOHN L. MCCLELLAN,

Chairman,

Subcommittee on Criminal Laws and Procedures,

Washington, D.C.

DEAR SENATOR McClellan: This is in response to your letter of December 21,

1971, regarding S. 2994 the "Victims of Crime Act of 1972".

There are, at present, seven States (including California) which have passed Acts similar to the basis Act proposed by the U.S. Senate Committee. The California Legislation does not include Public Safety Officers. Primarily, it is meant for the needy who are victims of crime. However, if a person receives any benefit under another coverage, this amount is deducted from the payment authorized.

Following are answers to your enumerated questions:

1. Provisions of the City Retirement System applicable only to Police and Fremen grant benefits for these persons killed or disabled in the scope of their employment.

2. Individuals are required to contribute into this Retirement System at a rate approximately 6%-7% of their gross compensation, the City providing for the re-

3. Cost of insurance is 50% more for Police and Firemen over ordinary occupa-

tion.

4. We would desire the program under Titles II and III to supplement our current program which was conceived to cover the ordinary hazards of firefightingnot the consequences of violence directed against a non-repressive arm of local government. We feel that this would be added insurance to cover extraordinary perils and would aid to compensate for a loss that falls beyond the accepted risk inherent in the field of firefighting. We have already had the sad duty of retiring a member due to such inane vio ence.

5. The two-stage program of Title II, administered by the State would be prefcrable to us because it would not only be more closely situated, but would tie in more easily with the complexities of litigation with the California Workmen's

Compensation Act and the administrators thereof.

6. At this time we do not envi on an attack on the independence of the local

fire service through a federal supplement of this type.

7. To us, Title III would seem to be the preferred system due to its simplicity of administration with no coagency entanglements at lower levels. It more squarely puts the fact forward that crime is a national issue rather than solely a local one, and that the nation must support their protectors in a concrete

8. Would prefer that all be set up in the one category.

Sincerely,

KEITH P. CALDEN, Chief of Department.

BIRMINGHAM FIRE FIGHTERS ASSOCIATION 117, Birmingham, Ala., January 10, 1972.

Re Your Letter 12-21-71.

Hon. John L. McClellan, U.S. Senate.

Washington, D.C.

DEAR SENATOR McClellan: On behalf of the Birmingham Fire Fighters Association, let me thank you for the opportunity to participate in the formulation of legislation such as S. 2994 and S. 2995. As a Fire Fighter, I was indeed pleased to learn that we were being included in these two pieces of legislation. Often times after the fire is out and the smoke blows away, the service of the fire fighters is forgotten. This rememberance on the part of you and your committee will surely go a long way in raising the morale of the fire service in this country.

Enclosed you will find my response to the question submitted to me. If I can be of any further assistance or there are any questions please do not hesitate

to contact me.

Sincerely yours,

BILLY GRAY, Secretary Treasurer.

1. The State of Alabama passed a law in 1969 awarding the sum of \$10,000 to the beneficiary of a Fire Fighter or Police Officer killed in line of duty. There is not a dismemberment program available.

2. The cost of the above program is met by the State thru direct appropriations from the state treasury. The legislature appropriates this money every two years.

3. The city of Birmingham furnishes all its employees with a life insurance policy. The cost of this coverage for all employees is the same except for the double indemnity coverage. The big disparity is in the amount of insurance between industry and government.

4. The Title 2 programs should be a supplement to any existing programs so

as to bring government benefits in line with the competitive market.

5. I can see no reason to prefer one program over another. If proper guidelines are drawn to make the programs workable. Some Cities and States will try to use this legislation to relieve them of their responsibility,

6. The local Police and Fire Fighters provide protection to Federal buildings and employees and help enforce federal laws and should receive a direct salary supplement. This supplement should not give the government direct control over the local public safety departments.

7. I would prefer seeing Title 2 enacted since many cities do have a death benefits program but do not have a dismemberment clause in the plan. I feel

that the injuries will greatly outnumber the deaths.

8. There is a general feeling although misguided that crime on the streets, riots and common crimes relate only to the police officer. The radical elements in this country often revert to fire bombings to stress a point. Rioters get more attention when they set fire to buildings and we have all heard the mobs motto, "Burn Baby Burn".

A Senate Judiciary subcommittee, headed by Senator James O. Eastland, revealed that in 11 riots investigated by the senators, fire fighters substained twice the injuries and deaths as did the police officer. The fire fighters deaths and injuries were greater than all the other people involved in the protection of the cities combined. This situation might reverse itself next year and then every year after that. The point is that the public safety departments of our cities are preforming a valuable function for its people and should not be singled out in separate programs.

CITY OF DOWNEY FIRE DEPARTMENT, Downey, Calif., January 13, 1972.

Mr. John L. McClellan, Chairman, Subcommittee, Criminal Laws and Procedures, U.S. Senate, Washington, D.C.

Dear Mr. McClellan: I have read and studied your bill S. 2994 together with S. 33 and the Congressional record relating to S. 2994 with great interest. Furthermore, I have had an opportunity to discuss this same material you so graciously sent me with several other Fire and Police Chiefs in the Southern California area.

Collectively, we agree with your Bill S. 2994 as being necessary to partially compensate for the injury—both bodily and financially—caused by criminal action

to their victims.

Basically we're opposed to S. 33 (Kennedy) and S. 1946 (Humphrey) because they are entirely Federally operated and we believe this type of program should involve the States and Cities as part of their responsibility.

It is felt that local agencies would tend to lose their concern over the rapid increase in criminal activity if they felt every crime was compensated for by

Washington and they themselves were not involved.

Naturally, we're anxious to support S. 2994 in any way we can because we agree the protection now afforded is too meager to justify the hazards involved. Court awards for accidental injuries suffered by civilians for real or imagined negligence have reached astronomical proportions as evidenced by the accompanying clipping from the Los Angeles TIMES, Tuesday, January 11, 1972.

While we in no way mean to infer that the victims of criminal activity should receive awards of anywhere the amount in this instance, we do feel that adequate renumeration should be provided for risking one's life and the welfare of his dependents in protecting others from the wilful disregard of law and order by the

perpetrators of criminal act.

To be specific, may I offer the following answers to your illustrative questions.

1. All "occupational injuries" incurred by Public Safety Officers (those injuries arising out of and in the course of employment) are adjudicated by the Workman's Compensation Appeals Board and awards paid from the State Compensation Insurance Fund.

2. When cases are "accepted" the Fund pays all medical bills, makes a cash settlement when the injury becomes permanent and stationary and depending on the severity of the damage and pays up to one half of three year average salary for as long as the injury remains. OASDI and State Retirement Funds may be in addition. Death award approximates \$20,000.00. Compensation Funds awards are defrayed by subscription by Government agencies.

3. Insurance costs for Public Safety officers are somewhat higher than for other public or private employers and Fire is higher than police. Non-occupational cov-

erage is approximately the same for all employees.

4. Whether Title II S2994 would supplant the California program is unknown at the moment . . . but it would certainly supplement it.

5. We would favor S2994 rather than S33 or S1946 because of the reasons

herein contained.

6. There is considerable concern that this type of program could lead to efforts to nationalize Public Safety officers into a totally socialistic operation. It is felt that by Federal supplementation of local and state plans local autonomy would be retained.

7. With a sense of individual responsibility the consensus indicated a preference for Title II. I think this showed a feel for need without being greedy and

is in keeping with other expressed thoughts as outlined above.

8. Finally, it was unanimous that all who qualified as Public Safety officers should be included in the program. In all cases the situations are parallel and

the circumstances similar enough to warrant equal consideration.

Senator McClellan, let me thank you for permitting me to review and comment on your Bill S2994 and the alternate approaches. I hope these comments are of some help in assisting to a successful culmination of your Bill. Thank you too for your personal interest in attempting to aid the innocent victims of violent crimes.

Sincerely,

ROBERT W. GAIN, Fire Chief.

OFFICE OF THE DEPARTMENT OF FIRE, Miami, Fla., January 12, 1972.

Hon. JOHN L. McCLELLAN, U.S. Senate, Washington, D.C.

Dear Senator McClellan: In response to your letter of December 21, 1971, I would like to take this opportunity to express my personal appreciation and the appreciation of the fire service of this country for your interest and support of the fire service as evidenced by your introduction of S. 2994.

I also appreciate being given the opportunity to comment on this bill and to answer the questions that you have posed. For the purpose of clarity I will restate

the question, the answer, and my comments.

1. Question: What programs are presently available within your jurisdiction in the way of death and dismemberment programs for "Public Safety Officers"

as defined by S. 2994?

Answer: An Employee Benefit Group Plan for all City of Miami employees, contracted with Metropolitan Life Insurance Company. A booklet describing the plan and entitled, "Employees Benefit Plan" is enclosed herewith; also an excerpt from Chapter 112. Florida Statutes, requiring certain death benefits for Firemen.

2. Question: What costs must be met by those individuals as well as units

of government covered by these programs?

Answer: The cost to an employee in the Employees Benefit Plan is \$5.26 biweekly for employee coverage, or \$12.52 biweekly for employee and dependent coverage. The cost to the City of Miami for their share of the insurance program is \$239.88 per employee (based on 1971 figures).

3. Question: How do these insurance costs compare to those incurred by employees other than public safety officers in government and private employment

in occupations at the same income levels?

Answer: All City of Miami employees pay equal cost to belong to the plan. A Firefighter and a general employee pay the same rates. I am not familiar with the insurance costs in private employment.

4. Question: Should the programs offered by Titles II and III of S. 2994 supple-

ment or supplant programs currently available to you? Why?

Answer: Programs offered by Titles II and III of S. 2994 should supplement our current Employees Benefit Plan to make greater benefits available to Firefighters as compensation for risking life and limb and as recognition of his hazardous occupation.

5. Question: Which would you prefer, the two-stage State or Federal program envisioned by Title II of S. 2994 or a direct Federal program or Federal subsidy of an existing state or local program as suggested by S. 33 and S. 1946? Why?

Answer: I would prefer a direct Federal program or Federal subsidy of an existing state or local program as sugested by S. 33 and S. 1946. This would provide benefits to all Firefighters whether or not the local program was adequate and would eliminate the red tape of going through the State.

6. Question: Do you see any long-term danger to the independence of local police forces from the establishment of direct Federal salary-type supplements?

Why?

Answer: No. If the Federal salary-type supplements are enacted by law, these supplements would be uniform throughout the country and similar to U.S. Civil Service. The employees would still be employed and supervised by their respective local governing body.

7. Question: Should Congress decide it would be appropriate to enact either Title II (or the alternatives of S. 33 and S. 1946) or Title III, but not both, which

would you prefer to see enacted? Why?

Answer: I would prefer Title III because there would be no cost to the employee and benefits would be excludable from gross income for Federal tax purposes.

8. Question: Should all of those currently covered by the term, "public safety officer" be included in the same program? Or would it be advisable to set up

separate programs for each separate category of "public safety officer?"

Answer: One uniform plan or program should provide maximum benefits at

less cost than separate programs; therefore, I feel that all public safety officers should be included in the same program.

Again, Senator McClellan, I want to express my appreciation for being afforded the opportunity to comment on this much needed legislation.

Sincerely,

L. L. KENNEY, Chief.

Employees Benefit Plan



CITY OF MIAMI, FLORIDA

(May 3, 1970)



CITY OF MIAMI, FLORIDA

Miami, Florida

To Our Employees:

This booklet gives you an outline of the Group Insurance Plan we have arranged for you with the Metropolitan Life Insurance Company.

Because you are a member of a group of people employed by the City, you can get insurance protection at low cost without medical examination. Your cost is low also because the City pays the rest of the net cost of the Plan.

You may enroll by merely filling out and signing one of the cards we have for that purpose.

We are convinced that the Plan offers you a very easy and economical way to help fill your insurance needs and that you will want to take advantage of it.

CITY OF MIAMI, FLORIDA



LIFE INSURANCE

Your Life Insurance will be paid for death from any cause to any person you name as beneficiary. You may have the beneficiary changed at any time.

TOTAL AND PERMANENT DISABILITY BENEFITS

If you become totally and permanently disabled while insured under the Plan and prior to age 60, through either sickness or accident, monthly payments as indicated in the Outline of the Plan will be payable to you during the continuance of such disability in lieu of the Life Insurance at death. The first payment will be made three months after receipt by the Insurance Company of due proof of such disability.



ACCIDENTAL MEANS DEATH AND DISMEMBERMENT INSURANCE

(Occupational and Non-Occupational)

In addition to any other benefits which you may receive, these benefits will be paid for bodily injury sustained while insured for this coverage and caused solely through violent and accidental means which result in death or loss of hand, foot, or sight of eye.

Benefits are paid provided the death or loss takes place within 90 days after the injury and is not caused in whole or in part from disease, bodily or mental infirmity, hernia, intentionally self-inflicted injury, or any act of war.

LOSS

For loss of life.

Loss of one hand by severance at or above wrist joint, or one foot by severance at or above ankle joint or total and irrecoverable loss of sight of one eye.

Loss of two or more such members.

AMOUNT PAYABLE

Full amount shown in the Schedule of Insurance.

One-half the amount shown in the Schedule of Insurance.

Full amount shown in the Schedule of Insurance.

For any one accident the maximum amount of Accidental Means Death and Dismemberment Insurance that will be paid is the amount shown in the Schedule of Insurance.



WEEKLY ACCIDENT AND SICKNESS INSURANCE

(Occupational and Non-Occupational)

These benefits will be payable if, while insured for Weekly Accident and Sickness Insurance, you become totally disabled as a result of injury or sickness and are under the care of a physician licensed to practice medicine.

Benefits will be payable beginning on the 8th day of total disability and will continue during such disability for a maximum of 13 weeks for any one continuous period of total disability, whether from one or more causes, or for successive periods of total disability due to the same or related cause or causes.

After you return to work if you again become totally disabled from a different and unrelated cause you will again become eligible for further benefits up to a maximum of 13 weeks.

Maternity benefits are described on another page.

HOSPITAL EXPENSE INSURANCE

(Non-Occupational)

If you or any of your dependents become confined as a patient in a legally constituted hospital as a result of injury or sickness while covered for Hospital Expense Insurance, you will be paid the actual amount charged for room and board up to \$31 for each day of such confinement for as long as 31 days.

In addition, you will be paid the first \$500 in full for the actual cost of anesthesia and charges made by the hospital for Special Hospital Services (except services of doctors and special nurses and services and supplies not related to medical care and treatment).

Reimbursement will be made only for services received during the period of confinement for which room and board benefits are paid.

The indicated maximum period for payment of benefits for room and board and the indicated maximum payment for Special Hospital Services shall be the maximums for any one continuous period of hospital confinement whether due to one or more causes or for all successive periods of hospital confinement due to the same or related cause or causes.

Benefits for room and board will be payable only if the period of confinement lasts at least 18 hours. However, if the period of confinement is less than 18 hours and a surgical operation is performed, or if emergency care because of an injury is received not later than the day following the injury, benefits for room and board charges, if any, will be payable and benefits for Special Services received will be payable whether or not room and board benefits are paid.

If you or any of your dependents, while covered for Hospital Expense Insurance, again become a hospital patient for a different and unrelated cause you again become eligible for benefits up to the maximum amounts indicated above.

In addition, if you or any of your dependents, while insured, receive treatment in the outpatient department of the hospital as a result of injuries due to an accident and within 48 hours of the time of the accident benefits will be payable for the charges made by the hospital or by a physician, for all such medical services received within that 48 hour period, up to a maximum payment of \$500 for each accident. These benefits are payable only for such expenses which are in excess of benefits otherwise payable under the Plan on account of such services.

Benefits are not payable for confinement which is due to pregnancy or resulting childbirth or complications.



IN-HOSPITAL PHYSICIANS' ATTENDANCE INSURANCE

(Non-Occupational)

These benefits are payable for the actual amounts charged by a physician licensed to practice medicine for professional visits made to you or any of your dependents while covered for this insurance and during the period of hospital confinement for which you are paid Hospital Expense Insurance Daily Benefits, subject to the following:

For Confinement in Which No Operation is Performed: The Plan will pay the doctor's fee for hospital calls for each day on which he makes one or more calls, in accordance with the following schedule:

First day	\$12.00
Next three days	10.00
Each day thereafter	5.00

For Confinement in Which an Operation is Performed: The Plan will pay the doctor's fee for visits made before the date of the operation on the same basis as shown above.

The maximum payment is shown in the schedule.

These benefits are not payable if the hospital confinement is due to pregnancy or resulting childbirth or complications.



INSURANCE FOR DIAGNOSTIC X-RAY AND LABORATORY EXAMINATIONS

(Non-Occupational)

Benefits are payable for diagnostic X-ray and laboratory examinations (excluding examination of urine and X-ray therapy treatment) when the examinations are made in connection with an injury or sickness and are recommended by a physician licensed to practice medicine.

If you or any of your dependents should undergo a diagnostic X-ray or laboratory examination while covered for this insurance, you will receive the amount charged up to a maximum payment of \$100.

The total reimbursement for all X-ray and laboratory examinations performed for the diagnosis of injuries received in any one accident by a covered person is limited to \$100. For all X-ray and laboratory examinations performed during any period of disability for the diagnosis of one or more sicknesses the total reimbursement is also limited to \$100.

Benefits will not be payable for a diagnostic X-ray or laboratory examination which is made:

- a) during hospital confinement and for which a charge is made by the hospital;
- b) in connection with dental work or treatment;
- c) because of pregnancy or resulting childbirth or complications;
- d) if reimbursement for such examination is otherwise payable under the Group Plan.



SURGICAL OPERATION INSURANCE

(Non-Occupational)

If you or any of your dependents, while covered for this insurance, undergo one of the operations listed in the "Schedule of Surgical Operations" and the operation is performed by a physician or surgeon licensed to practice medicine, you will receive benefits equal to the surgical fee charged up to the maximum amount listed for that operation. The maximum payment for operations which are not listed shall be determined, on the basis of the severity of the operations, in amounts consistent with the maximum payments for listed operations.

The maximum payment for two or more operations performed at the same time or performed at different times and due to the same or related cause or causes, if not otherwise limited under the "Schedule of Surgical Operations," shall not exceed \$400.

Benefits are not payable for surgical operations performed which are due to pregnancy or resulting childbirth or complications.



MATERNITY BENEFITS

(For Female Employees Only)

KIND OF INSURANCE

Sickness and Accident

MAXIMUM BENEFITS

6 weeks

These benefits are available only for a pregnancy commencing after the insurance on account of the female employee becomes effective.

See pages 11 and 12 under Medical Expense Insurance – Extended Coverage for further information on complications and Caesarean section applicable to female employees and dependent wives.

MEDICAL EXPENSE INSURANCE— EXTENDED COVERAGE

(Non-Occupational)

Benefits are payable for covered medical expenses incurred during a calendar year (January 1 through December 31) while you are insured and under the care of a physician or surgeon. The Plan will pay (see below) of the amount by which such expenses exceed the sum of (a) any other benefits payable for such expenses under the provisions of our basic group plan, any other group insurance or group prepayment plan which your employer (or any affiliated company) contributes to or otherwise sponsors, and (b) a deductible amount of \$100.

Up to \$5000 - 80% \$5000 but less than 10,000 - 85% \$10,000 and over - 90%

The aggregate total amount of benefits payable for covered medical expenses is \$15,000, subject to reinstatement as described later, with a maximum of \$15,000 in any one calendar year.

It is not necessary that you be confined in a hospital to be eligible

for these benefits.

COVERED MEDICAL EXPENSES

Any reasonable charges incurred by you for the following types of medical services performed or prescribed by a physician or surgeon licensed to practice medicine:

Services of physicians and surgeons, including specialists.

Hospital room and board, except for any charges over the hospital semi-private room rate. Charges for private room and board will be considered Covered Medical Expenses to the extent of the hospital's most common semi-private room rate.

Other hospital services required for medical or surgical care or treatment.

Oxygen, anesthetics and their administration.

X-rays and other diagnostic laboratory procedures.

X-ray or radium treatments.

Blood transfusions, including cost of blood.

Services of registered graduate nurses, other than a nurse who ordinarily resides in your home or who is a member of your immediate family.

Drugs and medicines dispensed by a licensed pharmacist.

Local professional ambulance service.

Rental of iron lung or other durable equipment required for therapeutic use.

Artificial limbs or other prosthetic applicances, except their replacement.

The Plan does not cover expenses incurred for pregnancy or resulting childbirth, miscarriage, or for prenatal or postnatal care. However, if there are severe medical or surgical complications, or if a Caesarean section is performed, any additional expenses incurred on account of such complications shall not be excluded if they otherwise qualify as covered medical expenses. Caesarean section, however, will be subject to an additional \$100 deductible.

MEDICAL EXPENSES NOT COVERED

Dental services of any kind, except expenses for necessary services for correction of damage caused by accidental injury while insured and expenses for hospital room and board and other special hospital services while a registered bed patient.

Cosmetic surgery or treatment, except expenses for necessary services for correction of damage caused by accidental injury

while insured.

Eyeglasses and hearing aids or examination for prescription or fitting.

Routine health check-ups.

Expenses from injury or sickness caused by an act of war.

Services for which the person receiving them is not required to make payment, or where payment is received as the result of legal action or settlement.

Also, expenses incurred prior to the effective date of the individual's insurance.

DEPENDENT BENEFITS

Benefits will be available for expenses incurred on account of a covered dependent on the same basis previously described except as follows:

If on the effective date of your Dependent Medical Expense—Extended Coverage, a dependent is then confined in a hospital or other institution for care or treatment or is confined at home under the care of a physician or surgeon because of a disabling physical or mental sickness or injury, coverage for that dependent shall not be effective until such dependent has been discharged from the hospital or other institution, and is no longer confined at home under the care of a physician or surgeon.

OTHER PROVISIONS

Benefits are determined separately for each individual. However, if you and one or more of your covered dependents, or if two or more of your covered dependents, incur covered medical expenses as a result of the same accident, the deductible amount will be applied only once against such expenses during the calendar year in which the accident occurs, regardless of the number of family members injured.

Covered medical expenses incurred in the last three months of any calendar year that are applied to all or part of a person's deductible

amount for that year will also be applied to that person's deductible amount for the next calendar year.

For mental or nervous conditions, the Plan will pay the benefits described, except that for covered medical expenses incurred on account of psychiatric treatments or consultations while you are not totally disabled so as to be prevented from working or while a covered dependent is not confined in a hospital or similar institution, the rate of benefit will be 80%.

If, during a calendar year, three members of a family have each satisfied the deductible, expenses on other members incurred after such date are not subject to further deductibles in that calendar year.

RESTORATION OF BENEFITS

A. Automatic

No matter how much you or a dependent receives in Medical Expense Insurance — Extended Coverage, up to \$1,500 of such benefits will automatically be restored (added to the amount still available for future expenses) on each succeeding January 1st. Of course, the maximum available will never be more than \$15,000 per individual at any time. As an example of this important Medical Expense Insurance — Extended Coverage provision, let's assume that in late 1970 a total of \$800 in Medical Expense Insurance — Extended Coverage is received by an employee, \$2,300 is received during 1971, \$3,100 during 1972, and \$700 during 1973. The following table shows how the automatic restoration provision can affect remaining benefits:

Date	Major Medical Benefits Received	Amounts Restored	Remainder of Benefits Available
5-3-70			\$15,000
Late '70	\$ 800		14,200
1-1-71		\$ 800	15,000
Year '71	2,300		12,700
1-1-72		1,500	14,200
Year '72	3,100		11,100
1-1-73		1,500	12,600
Year '73	700		11,900
1-1-74		1,500	13,400
1-1-75		1,500	14,900
1-1-76		100	15,000
Totals	\$ 6,900	\$6,900	

B. On Evidence of Insurability

Besides the automatic annual restoration of up to \$1,500 per year per individual, there is another method to regain maximum available

Medical Expense Insurance — Extended Coverage. If \$1,000 or more has been paid as a Medical Expense Insurance — Extended Coverage Expense for an individual, the full \$15,000 maximum for that person may be reinstated immediately if evidence of insurability satisfactory to the Insurance Company is submitted at the employee's own expense.

Christian Science Practitioners and Nurses—Expenses for visits for healing purposes by a Christian Science practitioner listed as such in the Christian Science Journal (current at the time of the visits) shall be considered for benefits, subject to the provisions which would apply if

the expenses were charged by a physician.

Expenses for professional nursing services of a Christian Science nurse shall be included on the same basis subject to the provisions which apply to expenses for other nursing services and provided the nurse is listed in the Christian Science Journal (current at the time of the services) as having: (1) Completed nurse's training at a Christian Science Benevolent Association Sanatorium, or (2) Graduated from another nurse's training course, or (3) Completed three consecutive years of Christian Science nursing, including two years of training.

EFFECT OF MEDICARE

Plan benefits on account of expenses incurred by active and retired employees and dependents age 65 and over will be exactly the same as for medical expenses incurred by employees and dependents under age 65 except that benefits normally payable under our Group Plan will be reduced by the amount of benefits paid to you by Medicare. Any person eligible for Medicare who is not enrolled for Part B of Medicare will have his benefits under our Plan reduced by the amount of benefits to which he would have been entitled if he had enrolled for Part B Medicare Coverage.

For example, if you incurred \$2,000 of expenses and under our Plan benefits you were eligible for \$1,500 of benefits as an employee under age 65, you would receive the difference between \$1,500 and the amount Medicare paid. If Medicare paid you \$500, you would receive \$1,000 payment under our Plan so that the total payment would be \$1,500, exactly the same total which would have been available for an employee under age 65.

When an employee's insurance plan is changed upon eligibility for Medicare, covered dependents who are not eligible for Medicare may continue to be covered, while they remain eligible dependents, under our present plan until they become eligible for Medicare.

No benefits will be paid for that part of any expenses for which benefits are available under any Plan or Program established pursuant to the laws or regulations of any government.

You will be advised by the City Insurance Department of the cost for this Plan.

Benefits supplementing Medicare will become effective on the date a covered person becomes eligible for Medicare unless we have been notified in writing that you do not desire such benefits.

OUTLINE OF THE PLAN

Here Is What You Get When You Are Insured:

\$ 10,000.00	60 Months 180.00 10,000.00 35.00	31.00 Payment in full for first \$500.00 of charges. 177.00 100.00 400.00	31.00 Payment in full for first \$500.00 of charges. 177.00 100.00 400.00 15,000.00	\$.26 12.52
BENEFITS FOR YOU Life Insurance	Total and Permanent Disability Benefits: Number of Installments Amount of Each Installment Accidental Means Death and Dismemberment Insurance Weekly Sickness and Accident Insurance	Hospital Expense Insurance: Maximum Dauly Benefit: Maximum Special Hospital Services: In-Hospital Physicians' Attendance Insurance (see page 7). Diagnostic X-Ray and Laboratory Examinations (Maximum) Surgical Operation Insurance (Maximum)* Maximum for Ill figures or Sicknesses: Isono on the Insurance Extended Coverage: Maximum for All figures or Sicknesses: Isono on the Insurance Insurance Extended Coverage: Isono on the Insurance I	Hospital Expense Insurance: Maximum Daily Benefit Maximum Daily Benefit Maximum Daily Benefit Maximum Special Hospital Services In-Hospital Physicians' Attendance Insurance (see page 7) Diagnostic X-Ray and Laboratory Examinations (Maximum) Surgical Operation Insurance (Maximum)* Medical Expense Insurance Extraded Coverage: Maximum for All Injures or Sicknesses	YOUR BI-WEEKLY COST FOR Employee Insurance Employee and Dependent Insurance Combined

*See Schedule of Surgical Operations.

Upon attanment of age 61 or upon retirement, whichever is later, the amount of Life humance will then be reduced by 10% and by the same amount of colors so each of the next four amounts are thereof. However, if any employee his received foul and next four amounts are received foul and next four and the later of the Life humance continued after age 61 or permanent Disability Benefici, the amount of Life Insurance continued after age 61 or retirement will be not more than the amount in force on the date immediately preceding attanment of age 61 or retirement, whichever is later. Your contribution for the amount 51 900 or insurance in force after retirement will be at the rate of 60 cents per month per 51 900 of Life Insurance and 10 cents per month per \$1,000 Accidental Means Death and Dismemberment Insurance.

WE SHARE THE COST WITH YOU

The City pay, the difference between the net cost of the Plan and the fixed amount Benefits under the Plan are not payable for any medical or surgical treatments, care, confinement or services which are or may be obtained without cost to a person covered

thereunder, in accordance with laws or regulations of any government. If a charge is made to any such person which the is legally equived to pay, any benefits under the Plan will be compared as econdance with the provisions of the Plan, taking into account only such charge. "Any government" includes the Federal, State, Provincial or local government or any political sub-division thereof, of the United States or Canada.

under this plan will be coordinated with non-occupational medical care protection under the plans, covering individuals as a group. Benefits otherwise payable under this plan may be readuced so that, for expenses incurred in each calendar year white coverage is provided under this plan, the total benefits and service allowances under all plans will not exceed the resonable and extonancy charges for items of necessary medical expense overed under any of the plans movived. COORDINATION OF BENEFITS WITH OTHER BENEFITS - Medical care benefits

OTHER INFORMATION ABOUT THE PLAN

HOW TO JOIN THE PLAN

Just fill out and return your enrollment card.

WHEN YOU ARE ELIGIBLE

On the day after you complete 90 days of continuous service.

WHEN YOUR INSURANCE BECOMES EFFECTIVE

By enrolling on or before the day you become eligible you will become insured for Employee Insurance on that day if you are then at work; otherwise, on the day you return to work. The Dependent Insurance, if you have dependents and have then enrolled for that insurance, will become effective on the day you become insured for the Employee Insurance.

You may not enroll for Dependent Insurance without also enrolling

for Employee Insurance.

If you become insured for Dependent Insurance, all of your eligible

dependents will be included.

If you have no dependents on the day your Employee Insurance becomes effective, you may enroll for Dependent Insurance within 31 days of the date you acquire a dependent and your Dependent Insurance will become effective on the date the person becomes your dependent or the date you enroll for Dependent Insurance, whichever is later.

As to Medical Expense Insurance — Extended Coverage with respect to any dependent the effective dates referred to above are subject to the requirements outlined under "Dependent Benefits" in the description of such insurance.

NO MEDICAL EXAMINATION

You do not need to take a medical examination if you enroll on or before the date you could first become insured or within 31 days thereafter. However, if you do not enroll during that period, the Insurance Company may require that you pass a medical examination before you can become insured. Likewise, if you do not enroll for Dependent Insurance, you may be required to provide satisfactory proof of the good health of your dependents.

YOUR DEPENDENTS

"Dependents" are (1) an employee's spouse, (2) any unmarried child under 19 years of age of a male employee, or a widowed female employee, or of a female employee whose husband is not eligible for insurance as an employee of our Company, excluding in any case (a) any person who is eligible for insurance as an employee of our Company. (b) any person residing outside of the United States and Canada, and (c) any person in the military or similar forces of any country or any sub-division thereof. The term "child" also includes any legally adopted child, any stepchild who resides in the employee's

household, and any child supported solely by the employee and permanently residing in the household of which the employee is the head.

Dependent coverage will continue to be provided after attainment of age 19 but not beyond attainment of age 23 if, in addition to the conditions outlined above, the dependent is a regular full-time student, is not employed on a full-time basis and is not covered for hospital or surgical insurance other than accident insurance.

Medical care insurance may be continued beyond the limiting age for a dependent child who is then physically handicapped or mentally

retarded. See your employer for particulars.

Employee should notify City Insurance Department of any change

in status of dependent.

If both husband and wife are employed by the City of Miami each must enroll for benefits. In this instance, only the husband may apply for dependent coverage for the children.

All claims should be filed promptly. By neglecting to do so you may be exempted from receiving benefits. When in doubt as to length of

time for filing, call the Insurance Department.

If you go on a leave of absence your insurance will automatically cancel as of the last day of work unless arrangements are made to continue coverage for the time allotted in your Certificate.

If you go on Military Leave (indefinite) your coverage terminates as

of the last day at work.

Part time employees are not eligible for insurance benefits. However, if you go from part time to full time benefits will be available after you have completed 90 days of full time service—provided you are actively at work, if not on the day you return to work.

WHEN YOU RETIRE PRIOR TO AGE 65

On retirement all of your insurance except Weekly Sickness and Accident Insurance will be continued. Your Life Insurance will be continued, subject to the reductions outlined under the Outline of the Plan. Your Accidental Means Death and Dismemberment Insurance will be continued in full.

Upon attainment of age 65, since such individual then becomes eligible for Medicare (See page 15, Effects of Medicare.)

Retirement Rates – Monthly	
Life\$.60 per \$1,000	
Accidental Means Death and Dismemberment	
Personal Medical Care Insurance	
Dependent Medical Care Insurance	

IF YOU LEAVE OUR EMPLOY

Life Insurance

If you leave our employ for any reason all of your insurance will

cease on the day you leave. Nevertheless, if you should die within 31 days thereafter your Life Insurance will still be paid to your beneficiary.

You may arrange with the Metropolitan Life Insurance Company to continue your Life Insurance protection under an individual policy, without medical examination, if you apply for it within 31 days after you leave our employ. The individual Life Insurance policy will be issued upon one of the forms of policies, except Term Insurance, then customarily issued by the Metropolitan for Life Insurance only, without Disability or Accidental Means Death Benefits, at the rate for your class of risk and age at that time.

Because the Life Insurance will be payable for death occurring during the 31 days after you leave our employ, the individual policy will not become effective until after the 31 day period has expired.

HOSPITAL AND SURGICAL OPERATION INSURANCE

If this protection ceases because your employment terminates, you may arrange with the Insurance Company to provide Hospital Expense and Surgical Expense Benefits under an individual policy, without medical examination, if you apply within 31 days after the date your Group Insurance ceases. The individual policy may also provide coverage for your dependents who are covered on the date such insurance ceases (except children who are then age 18 or over, who may apply for individual policies in their own behalf).

If this protection ceases for your covered dependents because of your death or for a covered child because he attains the maximum age for coverage as specified in the Group Policy, similar arrangements may be made for an individual relies on the best statements.

be made for an individual policy, on the basis outlined above.

Information concerning such individual policies will be furnished by your City Insurance Department upon request.

GROUP POLICY AND CERTIFICATE

The insurance briefly described in this announcement is subject to the terms and conditions of the Group Policy issued to our City by the Metropolitan Life Insurance Company. It is hoped that the Group Policy will be continued indefinitely but your City reserves the right to change or terminate the Plan in the future. Any such action would be taken only after careful consideration. If you become insured, you will receive a certificate outlining your benefits under the Group Policy.

SCHEDULE OF SURGICAL OPERATIONS

(Applicable to Employees and Eligible Dependents)

If more than one operation is performed through the same abdominal incision, the total payment for all such operations shall not exceed the greater of \$280 or the maximum payment specified in the Schedule for that one of such operations for which the largest amount is payable.

Maximum

C 1 1 0 11	aximum
Abdomen	
Resection of stomach or large intestine (including rectum)	\$ 400
Choledochoplasty: plastic repair or reconstruction of bile ducts	400
Pancreatectomy, local, partial or subtotal	400
Removal, or other operation on gall bladder or liver	320
Gastro-enterostomy, gastrostomy	320
Intestines, small, resection or anastomosis	320
Pyloroplasty	320
Subdiaphragmatic or subphrenic abcess	320
Peptic ulcer, perforated, closure of	280
Exploratory laparotomy	280
Appendectomy	200
Cutting into abdominal cavity for diagnosis or treatment of organs	
therein (unless otherwise specified in this Schedule)	280
A	
Amputations	
Upper Extremity	400
Interscapulo-thoracic	400
Disarticulation of shoulder	
Arm through humerus	
Forearm, through radius and ulna	
Hand, through metacarpal bonesFinger, one at any joint or phalanx	96
each additional finger	64 24
Lower Extremity	24
Hind-quarter (hemipelvectomy)	400
Disarticulation of hip	280
Thigh: through femur, supracondylar	
through condyles of femur	
Leg: through tibia and fibula	
Foot, transmetatarsal	
Toe, one at any joint or phalanx	
each additional toe	
Bones	
Osteoplasty (shortening or lengthening of bone)	320
Diseased bone, removal, (alveolar processes excepted):	
Metacarpal, metatarsal, or phalanges	80
All others	
Drilling of cortex for osteomyelitis or bone abcess or incision of	
periostium, (alveolar processes excepted)	80
Cutting operation for removal of material used for internal fixation	80
Osteotomy for correction of congenital or acquired deformities:	4.00
Major long bones	
Fingers or toes	
Epiphysial arrest by drilling, grafting or stapling	80 80
Exostosis, one or more, removal of	00

Surgical Operation	Maximum Payment
Breast	
Abscesses	\$ 56
Benign tumors, or partial amputation	80
Mastectomy:	
Simple	160
Radical	400
CARDIOVASCULAR SYSTEM	
Heart and Pericardium:	
Cardiotomy, pericardiotomy or pericardiectomy	400
Arteries:	100
Arteriotomy, with exploration or removal of embolus:	
intrathoracic	400
intraabdominal	280
neck or extremities	80
excision of arterial or arteriovenous aneurysm	240
Angiography:	0.0
catheterization of heart chambers	80
cerebral angiogram, with vessel exposure	48
Varicose veins:	
injection treatment, each treatment (not more than five)	16
cutting operation	120
Phlebotomy, with exploration or removal of thrombus:	
intrathoracic	400
intraabdominal	280
neck or extremities	80
Transfusion of blood:	
Recipient, each transfusion (not more than eight)	40
CHEST	
Cutting into thoracic cavity for diagnosis or treatment of organ	
therein (unless otherwise specified in this Schedule)	400
Lobectomy	400
Pneumolysis	240
Thoracotomy for drainage	120
Pneumothorax, artificial: induction of	48
each refill	16
Thoracentesis: puncture of pleural cavity for aspiration	24
Dislocations, Reduction of:	
Unless otherwise specified, the maximum payment shown is the	
payment for closed reduction or treatment.	F
Maximum payment for open reduction or operation for treatmen	t
of compound dislocations is twice the amount shown for closed	
reduction unless otherwise specified in the Schedule.	
Temporomandibular	- 24
Clavicle, sternoclavicular, or acromioclavicular	. 80
Shoulder (humerus): closed reduction	. 64
open reduction	. 280
Elbow	. 80
Metacarpal or carpal	
Finger Thumb: closed	. 16
open	

Surgical Operation	Maximum Payment
DISLOCATIONS, REDUCTION OF: (Continued)	
DISLOCATIONS, REDUCTION OF. (Continued)	\$160
Hip (femur) Knee (tibia)	120
Patella: closed reduction	64
open reduction	160
Semilunar cartilage (meniscus): closed	24
Semilunar cartnage (memseus). closed	200
open	80
Other tarsal or metatarsal	96
Toe	16
Ear, Nose, or Throat	
Labyrinthotomy	400
Labyrinthectomy	400
Fenestration of semicircular canals	400
Mastoidectomy	240
Myringotomy: tympanotomy: plicotomy	24
Tonsillectomy:	
Removal of tonsils or tonsils and adenoids:	0.0
Employee	80
Wife or child 12 years of age and over	80
Child under 12 years of age	48
Nasal septum, submucous resection with or without rhinoplasty	160
Rhinoplasty with or without submucous resection:	240
including grafts	240
without grafts	100
Maxillary sinusotomy, simple:	
antrum window operation: unilateral	80
Maxillary sinusotomy, radical (Caldwell-Luc):	
unilateral	160
bilateral	240
Sphenoid or ethmoid sinusotomy	
Frontal sinusotomy, external, radical	240
Combined external, frontal, ethmoid and sphenoid sinusotomy	v:
unilateral	240
bilateral	320
Removal of nasal polyps or turbinate (one or more)	40
Tracheotomy	120
Laryngectomy	400
Endoscopic Procedures	
Thoracoscopy, peritoneoscopy, or culdoscopy:	
With surgical operation	240
Without surgical operation	96
Bronchoscopy, esophagoscopy, or gastroscopy:	
With surgical operation	160
Without surgical operation.	96
Lawngoscopy direct:	
With surgical operation	120
Without surgical operation	40
Cystoscopy:	
With surgical operation (not otherwise classified)	80
Without surgical operation	40
Proctoscopy—Sigmoidoscopy—See Rectum	

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Eye	
Detached retina, repair of	\$320
Cataract, extraction	240
" needling	120
Enucleation or evisceration	200
" with implantation	240
Cutting operation on eye muscles, one or more muscles	200
Glaucoma, operation for	200
Removal of intraocular foreign body	
Iridectomy or keratectomy	
Pterygium	
Operative removal of foreign body imbedded in cornea or sclera	24
opolacito idilotal di locașii boa, inibolaca in contra di bottamin	
Fractures, Treatment of	
Unless otherwise specified the maximum payment is the payment	
for closed reduction or treatment.	
Maximum payment for open reduction or operation for treat-	
ment of compound fractures is twice the amount shown for closed	
reduction unless otherwise specified in the Schedule but not ex-	
ceeding \$400.	
Epiphysial separations are considered fractures of the bone involved.	
Skull	
Depressed:	
Requiring dural repair	400
Not requiring dural repair	200
Non-operative treatment	80
Facial bones	
Nose	
Mandible, or maxilla	80
" open or closed reduction, with wiring of	240
teeth or application of skeletal fixation	40
Facial bones (not otherwise classified)	40
Spine and trunk Vertebra, body of:	
Closed treatment (one or more)	160
Laminectomy or spine fusion for.	400
Vertebral process, one or more	40
Sacrum	80
Соссух	
Ribs: one	32
each additional	
Sternum	40
Sternum, depressed—open reduction	160
Clavicle	
ScapulaPelvis:	80
Closed reduction	120
With fracture and protrusion of the acetabulum.	
Open operation including repair of pelvic contents	400
Upper Extremity	
Humerus	160
Elbow, fracture into	160
Radius and/or ulna	160

Surgical Operation	Maximum Payment
FRACTURES, TREATMENT OF (Continued)	
Upper Extremity (Continued)	
Wrist: Carpal bones—one or more	\$120
Metacarpal—one or more	80
Finger or thumb: one	
each additional	
Lower Extremity	
Femur	
Tiba and/or fibula	
Patella	
Ankle, bimalleolar or trimalleolar	
Astragalus and/or Os Calcis	
Other tarsal and/or metatarsal bones	
each additional	
GENITAL SYSTEM	
Female (Gynecology)	
Radical hysterectomy for malignant tumor	400
Hysterectomy, including total or subtotal, supra-	
cervical or panhysterectomy (with or without,	
dilatation and curettage, surgery on tubes,	***
ovaries, ligaments or pelvic floor repair)	280
Excision of fibroid tumor of uterus	
Uterine suspension or fixation	240
Amputation of cervix	80
Local excision of lesion of cervix, conization, cauterization	n
or any combination thereof	
Dilatation and curettage (non-puerperal)	56
Dilatation and curettage (non-puerperal) with local exc	ision
of lesion of cervix, conization or cauterization	80
Cystocele and/or rectocele, repair of	120
Perineorrhaphy, perineoplasty, colpoplasty, other gynecolo	gical
plastic, or any combination thereof	
Any operation on the ovaries and/or fallopian tubes	200
Bartholin's and Skene's glands, or urethral caruncle:	5/
ExcisionIncision	
	24
Male	
Prostate, removal for malignant tumor	400
Prostate, removal	320
Prostate, external drainage of abscess	
Orchidectomy or epididymectomy	120
Excision of:	
Hydrocele	120
Varicocele:	
Unilateral	
Bilateral	
Vasectomy for disease	64 56
Incision into testis or epididymis	
Of Employee or Dependent 12 years of age and over	48
Of Dependent under 12 years of age and over	32

Surgical Operation	Maximum Payment
Hernia	
Hernioplasty: herniorrhaphy: herniotomy:	
Single	\$160
Multiple	240
Hiatus or diaphragmatic	400
Ventral, incisional	230
Ventral, incisional with fascial or artificial implant	320
Joints	
Arthroplasty	
Shoulder, elbow, hip, knee	400
Wrist or ankle	200
Any other joint	96
Arthrodesis—fusion or fixation	200
Hip or shoulder	280
Knee or ankle	200
Elbow or wrist	200
Spine fusion—See Spine	
Intervertebral disc—See Spine	
Arthrotomy	240
Shoulder, elbow, hip or knee	200
Wrist or ankle	80
Any other joint	
Capsulatomy and/or capsuloplasty Shoulder, elbow, hip and knee	160
Snoulder, elbow, hip and knee	80
Any other joint Capsulorrhaphy: suture or repair of joint capsule	120
Bursa—Excision of or incision into	120
Needling of	32
14ccumg of	
Muscles—Cutting, Repairing, Suturing and Transplantation	ON
Single	80
Each additional	40
Division of scalenus anticus	120
Division of sternocleidomastoid for torticollis	160
Nerves	
Gasserian ganglionectomy	400
Sympathectomy	320
Retrogasserian neurotomy: transection of sensory root of	
trigeminal nerve	280
Transection of vestibular branch of acoustic nerve	160
Peripheral nerve trunk surgery	120
Transection of phrenic nerves	120
Injection of alcohol	40
Diagnostic and therapeutic blocks:	40
Sympathetic block (lumbar, dorsal, or cervical), initial	40
Paravertebral block, initial	40
Paracentesis	24
RECTUM AND ANUS	
Proctoplasty, perineal, for stricture or prolapse	160
Cutting operation or injection treatment for radical cure of	
hemorrhoids (complete procedure):	

Surgical Operation	Maximun Payment
RECTUM AND ANUS (Continued)	
Other than external	\$120
External only	
Cutting operation for fistula in ano	120
Proctorrhaphy for stenosis	48
Cutting operation for fissure Cryptectomy, single or multiple	
Enucleation of external thrombotic hemorrhoid	16
Biopsy, not otherwise classified.	
Other cutting operations	
Proctoscopy	16
Proctoscopy, with removal of papillomas or polyps	40
Sigmoidoscopy	40
Sigmoidoscopy, with removal of papillomas or polyps	56
If more than one operation is performed at any one time on the	
rectum or anus, the maximum payment shall not exceed \$200.	
SKIN AND SUBCUTANEOUS AREOLAR TISSUE	
Excision of pilonidal cyst or sinus	160
Wide excision of lesion, with graft or plastic closure	160
Wide excision of lesion, without graft or plastic closure	80
Drainage of furuncle, small subcutaneous abscess	
or sebaceous cyst	16
Drainage of onychia or paronychia, with or without	
complete or partial avulsion of nail	16
Drainage of lymph node abscess or lymphadenitis	
Incision and removal of foreign body	16 16
Biopsy of skin, subcutaneous tissue, or lymph node	10
Local excision of small benign neoplastic, cicatricial,	24
inflammatory or congenital lesion	44
Excision of nail, nail bed, or nail fold: Partial	16
Complete	40
Excision of lymph node for diagnosis.	
Simple excision of lymph nodes for tuberculosis.	
Excision of carbuncle	40
Drainage of carbuncle	24
Lacerations, surgical repair of:	
Single	24
Each additional	16
All types, maximum	120
Burns, surgical treatment of:	
Third degree	56
Second degree	32
Skull	
Craniotomy, with plastic repair, bone graft, metal or plastic plate.	400
Trephination (or burr holes) exploratory:	
Unilateral	80
Bilateral	120
Ventriculography	80
SPINE	400
Intervertebral disc, operation for	400
Laminectomy	400
Spine fusion	400
Pneumo-encephalography Spinal puncture (lumbar puncture)	24
Spinal puncture (lumbar puncture)	g

our groun of porumon	Aaximum Payment
Tendons	
Cutting, repair, suturing, and transplantation: Single Each additional	.\$ 80
Each additional	. 40
Fasciectomy for Dupuytren's contracture	. 160
Thyroidectomy	. 360
Tumors Removal of, by cutting operation: Malignant tumors (except those of face, lip, or skin) Malignant tumors, face, lip, or skin	. 400
URINARY SYSTEM	. 160
Removal of kidney	. 320
Cutting operation into kidney, ureter, or bladder	. 280
Cystostomy (for drainage)	. 160
Cystostomy (for drainage)	. 160
Litholapaxy or crushing of stone	. 160



MISCELLANEOUS EXCERPTS—CHAPTER 112, PERSONS ELIGIBLE TO OFFICE; RETIRE-MENT; GROUP INSURANCE; EXPENSES

112.18 Firemen; special provisions relative to disability.—Any condition or impairment of health of any Florida municipal, county, port authority, or fire control district firemen caused by tuberculosis, heart disease, or hypertension resulting in total or partial disability or death shall be presumed to have been accidental and to have been suffered in the line of duty unless the contrary be shown by competent evidence, provided, however, that any such fireman shall have successfully passed a physical examination upon entering into any such service as a fireman, which examination failed to reveal any evidence of any such condition; provided, further, that such presumption shall not apply to benefits payable under or granted in a policy of life insurance or disability insurance. Nothing herein shall be construed to extend or otherwise affect the provisions of chapter 440 pertaining to workmen's compensation.

History.--- § 1, ch. 65-480

112.191 Firemen; death benefits.—

(1) Whenever used in this act:

(a) The term "employer" means a state board, commission, department, divi-

sion, bureau or agency, or a county, municipality or special district-

(b) The term "fireman" means any duly employed uniformed fireman employed by an employer, whose primary duty is the prevention and extinguishing of fires, the protection of life and property thereform, the enforcement of municipal county, and state fire prevention codes, as well as the enforcement of any law pertaining to the prevention and control of fires, who is a member of a duly constituted fire department of such employer, and not a volunteer fireman.

(c) The term "insurance" means insurance procured from a stock company or mutual company or association or exchange authorized to do business as an

insurer in this state.

(2) (a) The sum of ten thousand dollars shall be paid as hereinafter provided when a fireman, while under seventy years of age and while engaged in the performance of any of the duties mentioned in subsection (1)(b), or in the performance of any other duty that is within the scope of his employment as a fireman, is killed or receives bodily injury which results in the loss of his life within one hundred eighty days after the injury occurs, if such death is not the result of suicide and if such bodily injury is not intentionally self-inflicted. Such payment shall be in addition to any workmen's compensation or pension benefits and shall be exempt from the claims and demands of creditors of such fireman.

(b) The employer of such fireman shall be liable for the payment of said sum and shall be deemed self-insured, unless it procures and maintains, or has already procured and maintained, insurance to secure such payment. Any such insurance may cover only the risks indicated above, in the amount indicated above, or it may cover those risks and additional risks and may be in a larger amount. Any such insurance shall be placed by such employer only after public bid of such insurance coverage which coverage shall be awarded to the carrier

making the lowest best bid.

(c) Such payment, whether secured by insurance or not, shall be made to the beneficiary designated by such fireman in writing, signed by him and delivered to his employer during his lifetime. If no such designation is made, then it shall be paid to his surviving child or children and wife in equal portions, and if there be no surviving child or wife, then to his estate.

MSCELLANEOUS EXCERPTS—CHAPTER 30, SHERIFFS

30.09 Qualification of deputies; special deputies.—

(1) BOND, SURETIES, PERFORMANCE OF SERVICES.—Each deputy sheriff, appointed as aforesaid, shall be required to give bond in the penal sum of one thousand dollars, payable to the governor of Florida and his successors in office, with two or more good and sufficient sureties, to be approved by the board of county commissioners and filed with the clerk of the circuit court, which bond shall be conditioned upon the faithful performance of the duties of his office. No deputy sheriff shall be allowed to perform any services as such deputy until he shall subscribe to the oath now prescribed for sheriffs and until the approval of his bond. The aforesaid sureties shall be liable for all fines and amercements imposed upon their principal.

(2) SURETY COMPANIES—The requisite of two sureties and justification of same shall not apply where surety is by a solvent surety company authorized

to do business in this state.

(3) LIABILITY OF SHERIFF.—The giving of said bond by said deputy shall not in any manner relieve the sheriff of the liability for the acts of his deputies.

(4) EXCEPTIONS.—The provisions of this section, and of § 30.08, shall not apply to the appointment of special deputy sheriffs when appointed by the sheriff, under the following circumstances:

(a) On election days, to attend elections

(b) To perform undercover investigative work;

(c) For specific guard or police duties in connection with public sporting or entertainment events, not to exceed thirty days; or, for watchman or guard duties, when serving in such capacity at specified locations or areas only.

(d) For special and temporary duties, without power of arrest, in connection

with guarding or transporting prisoners;

(e) To aid in preserving law and order, or to render necessary assistance in the event of any threatened or actual hurricane, fire, flood, or other natural disasters, or in the event of any major tragedy such as an airplane crash, train or automobile wreck, or similar accident;

(f) To raise the power of the county, by calling bystanders or others, to assist in quelling a riot or any breach of the peace, when ordered by the sheriff

or an authorized general deputy.

(g) The appointment of any such special deputy sheriff shall be recorded in a register maintained for such purpose in the sheriff's office, showing the terms and circumstances of such appointment.

(5) REMOVAL FOR VIOLATION.—A violation of this section shall subject

the offender to removal by the governor.

History.—§§ 1–4, 6, ch. 6478, 1913 ; RGS 2883 ; CGL 4580 ; § 2, ch. 22790, 1945 ; § 1 ch. 57–93

MISCELLANEOUS EXCERPTS-CHAPTER 40, JURORS AND JURY LISTS

40.08 Persons exempt from jury duty.

40.12 Exemption from jury duty. (Repealed)

40.38 Court of record.

40.08 Persons exempt from jury duty.—Practicing attorneys shall be exempt from jury duty.

History.—RS 1150; §§ 1–3, ch. 4574, 1897; GS 1573; RGS 2775; CGL 4452; § 1, ch. 20904, 1941; § 1, ch. 57–95; § 5, ch. 67–154; §§ 1, 2, ch. 70–138. Cf. § 466.21, Dentists; § 470.27, Funeral directors and embalmers.

40.12 Exemption from jury duty.—[Repealed by §1, ch. 70-138.]

Indianapolis Fire Fighters Association, Indianapolis, Ind., January 14, 1972.

Hon. John L. McClellan, U.S. Senate.

DEAR SENATOR: On behalf of the members of the Indianapolis Fire Fighters Association I would like to thank you for writing us concerning S. 2994. Your efforts on behalf of the nation's public safety officers is deeply appreciated and we whole heartedly believe that legislation in this area is critically needed.

In answer to your questions, the City of Indianapolis does not have an insurance program available for the Indianapolis fire fighters and normal individual insurance coverage is purchased by the individual and is paid entirely by the insured. The Indianapolis fire fighters would want considerably more coverage if it were available at lower cost because our salaries are too low to provide enough coverage at regular rates. At one time our fire fighters did have trouble buying insurance without paying a higher rate but to our knowledge this condition no longer exists.

Since the State of Indiana does not provide for insurance of this type, any program of benefits is certainly needed and is deserving. We would prefer a direct Federal program or Federal subsidy as suggested by S. 33 and S. 1946 for

the reason that the State of Indiana doesn't have an existing program.

We do not see any long term danger to the independence of local police or fire forces from the establishment of direct Federal salary-type supplements because the Omnibus Crime Control and Safe Streets Act of 1968, to our knowledge, didn't

change the police forces and this wouldn't either.

Should Congress decide it would be appropriate to enact either Title II (or the alternatives of S. 33 or S. 1946) or Title III but not both, we would prefer Title II because it would be more beneficial to the nation's fire fighters. The reason being that the payment of benefits would not be limited to the death of a fire fighter because of a criminal act.

We do not believe it would be advisable to set up separate programs for each separate category of "public safety officer" because of possible problems of ad-

ministration that could arise if each category were separated.

Thanking you once again for asking us our feelings on your bill and if we can assist you in any way, please have your office write and you will have our full cooperation.

Sincerely yours,

JOSEPH E. OLOFSON, Recording Secretary.

CITY OF ASTORIA, OREG., January 17, 1972.

Senator John L. McClellan, U.S. Senate, Committee on the Judiciary, Washington, D.C.

HON. SENATOR McClellan: I am replying to your letter, dated December 21, 1971, inviting me to comment on the benefit programs for "Public Safety Officers" which are currently pending before the Subcommittee on Criminal Laws and Procedures. The memorandum, other papers and copies of the bills were discussed briefly with the members of the Oregon Fire Chiefs Association Executive Board. The following reply is a consensus of opinion of the members in attendance and not mine alone.

1. Will the insurance program be a continuing or short-term program? Our

recommendations are that it be established as a continuing program.

2. There are many cities and rural fire protection districts in Oregon that presently carry some type of life or accident insurance for their members which varies with the individual cities, from \$1,000 to \$10,000. There are other cities and districts in the state that do not provide any accidental death and dismemberment insurance.

3. In answer to Question No. 2. The cost depends upon the amount of insurance

the individuals or government units take out.

4. Question No. 3. In most of the cities the city provides the following protection for all city employees, with the exception of Volunteer Firemen:

League of Oregon Cities: \$2,000 each employee; \$1,000 on spouse; \$1,000 on

each dependent. Insurance for Volunteer Firemen in some cities and Rural Districts are as follows:

Accidental death and dismemberment_____ \$5,000 50 Weekly indemnity Premium cost per year_____

Until further research by the executive board the second phase of question 3

cannot be answered at the present time.

5. Question #4. The programs offered by Titles 2 & 3 of S. 2994 should supplement programs available to the public safety officers.

The reason for this is that some programs are available to public safety of-

ficers at no cost to the individual.

6. Question 5. This question depends upon the type of programs that are in existence at the local or state level, if any, at the present time. It is our opinion that we would prefer the two-stage State or Federal program under Title 2 of S. 2994.

7. Question 6. The dangers in regards to independence as mentioned would de-

pend on the federal requirements attached to the programs.

8. Question 7. We are of the opinion that Title 2 should be enacted.
9. Question 8. We are of the opinion that all of those currently covered by the

term "Public Safety Officer," be included in the same program.

10. In S. 2994 the verbiage "in the line of duty," is mentioned several times under the heading of "definitions," and the wording is not defined. This we feel should be spelled out to avoid confusion or misunderstanding of what is actually meant.

11. If Title 2 or the alternatives of S. 33 or S. 1946 are enacted what controls

are contemplated for the implementation of the programs.

I want to thank you for the opportunity of commenting on the benefit programs.

Please feel free to contact me if you desire any further comments.

We would appreciate receiving 10 more copies of S. 33, S. 1946 and S. 2994 for each member of the Oregon Fire Chiefs Executive Board.

Sincerely yours,

ARNI RAUTIO, Fire Chief.

INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, LOCAL 55, Oakland, Calif., January 18, 1972.

Senator John L. McClellan, Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

Honorable Sir: Reference is made to your most welcome communication of 21 December 1971. May I graciously attempt to answer your questions on this

important coverage as follows:

1. Locally, the members of the Police and Fire Departments of Oakland, California are jointly covered by an Accidential Death and Dismemberment policy on an individual basis. Basic or Plan I policy (\$2,500-\$5,000) is covered through the Security Life and Accident Company, with agents of Myers-Stevens & Co., 155 Montgomery St., San Francisco, California. Further coverage as noted below, Plan II (\$20,500-21,000) and additional Benefits afforded through a Plan III (\$6,000-12,000). Personnel Cost of this coverage:

Plan I, \$1.75; plan II, \$4.90; plan III, \$3.25; both plan I and II, \$6.65; plan I,

II, and III, \$9.90.

Holder of Plan I (basic), Dependents are covered for \$1,000. each.

Also, there is available through the Police and Firemen's Insurance Association, 221 East Ohio Street, Indianapolis, Ind., a Life and Dismemberment Policy which pays \$2,000 for loss of life and varied amounts for loss of eyes or limbs. Cost of this policy is \$3.00 per month.

2. Costs of the aforementioned are included in No. 1 above and are borne solely by the individual participating member with no costs being met by the local

3. It is my understanding that the costs of insurance coverage for public safety officers varies from community to community and to my knowledge, through various inquiries of personnel, no one has been denied any extended coverage, and a few local coverages, such as one sponsored by a local Newspaper (The Oakland Tribune whose Editor is former Senator Bill Knowland), at the price of 50¢ per Unit, they do not ask the occupation of the subscribing individual, and the participating subscriber's beneficiaries are afforded the amount of \$10,000 upon an accidental death.

4. It would appear the answer to this question should be that Titles II and III would supplement the current programs. The main reason being that even in our most adequate programs there is still room for improvement and any addi-

tional benefits certainly are needed and deserving.

5. When the legislation is finally put into a clean bill, the figures would be the same for either proposition. The main difference to the two approaches is that S. 2994 would allow the State, through a law enforcement agency commission or fire commission, to administer the insurance program and be reimbursed by the Federal Government. S. 2995 would at its very inception be a Federally administered program, units voting to participate would all be in one National Program. This last one resembles the program as instituted for the Armed Forces and Federal Government Employees, as noted in Senator Humphrey's proposal released sometime in May 1971. Experience in this program might prove successful for a program for the Public Safety Officers.

6. This question does raise the question of a trend toward nationalized police and fire services and even though fires are just as hot in the East as in the West and bullets just as penetrating, I believe local conditions in various parts of the

country should have a bearing on this.

7. In weighing the assets afforded; Title II is accidental death and dismemberment equal to the annual salary plus \$2,000, not to exceed \$32,000. and Title III is \$50,000. For death of a Fire Fighter because of a criminal act. I would lean toward Title II in order to afford protection to those Police and Fire Fighters in the smaller communities who may not be subjected to criminal acts as frequent as their Brothers in the larger cities are. Each has its important factor and if at all possible, the good points of each should be intermingled.

8. It is this humble person's opinion that all those currently covered by the term "Public Safety Officer" be included in the same programs. Local experience has proven that a coordinated effort by the Police Officers and Fire Fighters has added "Teeth" to most projects and proposals presented to the Public and its

Officials.

May I take this opportunity to thank you for including me in on this most important questionnaire and above all to express sincere thanks on behalf of all "Public Safety Officers" to the Chairman and members of the Committee and Staff who have worked so diligently to prepare, and eventually present, this type of legislation.

May God Bless all of you for your continued efforts in our behalf.

Most sincerely,

ALBERT J. GRAY, Secretary.

OMAHA ASSOCIATION OF FIRE FIGHTERS, Local 385, Omaha, Nebr., January 18, 1972.

Hon. John McClellan, U.S. Senator, Senate Office Building, Washington, D.C.

Dear Senator McClellan: In reference to your letter dated Dec. 21, 1971 asking for our comments on the pending legislation on Senate Bills S. 33, S. 1946, & S. 2994 we offer the following comments and answers to the questions submitted.

Question 1.—To date there are no programs presently available to uniformed Firefighters in Omaha for death and dismemberment other then those that a member may purchase through a regular commercial insurance company. We have certain coverage under our pension system but I feel our pension coverages don't apply in the meaning of the question.

Question 2.—The entire cost must be met by the individual Firefighter with no participation from our unit of government. Premiums vary with the type of

coverage the Firefighter selects.

Question 3.—To my knowledge Firefighters in Omaha do not pay higher premiums for insurance coverage for standard coverage. I have talked with a local insurance agent who informed me the rate for double indemnity coverage is twice

the ordinary rate for specific age groups.

Question 4.—I believe Titles II & III of S. 2994 would be a supplement to the protection that the individual member may have provided for himself. Because of costs of adequate coverage and the fact that salaries for those in the public service on a local level are usually low the additional protection under Titles II & III would be a welcome benefit.

Question 5.—The members that I have talked with tend to prefer the program under S. 2994 because it was felt that if this type of program is administered by the Federal Government it would be standard throughout the country and would

be easier to administer.

Question 6.—Not at this time from a Firefighters viewpoint. Each community has its own particular problems that are unique in the fire service and it would appear that the Federal government would be hard pressed to eventually nationalize the fire service.

Question 7.—Title 3 without question in that the protection afforded is much more substantial. The only thing that bothers us in discussion of this is the defini-

tion of a criminal act.

Question 8.—We believe the term "public safety officer" is a all inclusive definition and should be kept in the act and that setting up different categories for different positions would be duplication. The thing that must be remembered that even though the positions of a Police officer and Firefighter differ in physical makeup and job application the goal is the same in both professions "To protect the lives and property of the citizens of the community". There is no difference if a person dies in a fire or at the hands of a murderer, the result is the same and just as permanent. The loss to a citizen is just as great if he is robbed of \$5,000,00 or loses \$5,000.00 of his belongings in a fire.

We are indebted to you for preparing this legislation and taking the time to ask for our views on it. We hope that you will extend our thanks to all of the other Senators that had something to do with its make-up especially to our Senator Roman Hruska. We realize that your responsibilities are agreat and the work load of your office increases every day but don't hesitate to ask for assistance or

additional information from this writer.

Respectfully submitted,

ROBERT J. WARSOCKI.

FLAGSTAFF FIRE DEPARTMENT, Flagstaff, Ariz., January 17, 1972.

John. L. McClellan, U.S. Senator, U.S. Senate, Committee on the Judiciary, Washington, D.C.

Dear Senator McClellan: This is in response to your letter, requesting my opinion on the necessity of Benefit Programs for Public Safety Officers. In my opinion, a Program is needed and it is gratifying to find out that consideration is being given to Fire Fighters. Statistically, Fire Fighters have the highest injury and death rate of any Public Safety Officers, and yet, this has not been recognized or acknowledged by the Federal Government. Law Enforcement Agencies have received Federal and Private Grants and Federal subsidies, but up until recently, there has been no consideration by the Federal Government, regarding the research for improvement of the Fire Services.

Regarding the Illustrative Questions contained in the Brochure I will answer

them to the best of my ability and knowledge.

1. At the present time, in case of job incurred injury, we have State Compensation.

State Compensation Premiums are paid for entirely by the City of Flagstaff.
 Cost of Compensation Premiums for Fire Fighters are considerably higher than nearly all other occupations. These are established by Government Statistics.

I am unable to cite specific cases, but I have heard that in many cases, Fire Fighters do have difficulty getting certain types of Insurance Coverage and that their Premiums are higher in cost.

4. Yes, because they would provide better Coverage.

5. My preference would probably be Title II, because this would possibly be under State control, which could result in less "red tape" and effect the more

rapid settlement of Claims.

6. Possibly there could be some tendency on the part of the Federal Government to restrict the independence of local Police Forces. This of course, in my opinion, would depend on the attitude of Federal Administrators, they might conclude that if Federal Funds are involved, they should have something to say about the operation of the Police Forces.

7. Title III. Because of the greater Benefit and with the many different things that require withholding from the salaries at the present time, I feel that this would create an additional financial burden on most of the persons that would

be affected.

8. I believe that all Public Safety Officers should be in the same program. This would reduce duplication of the administering of the program and probably improve the possibility of a Program being implemented, due to the elimination of different factions, trying to secure more benefits for their particular organizations.

Unusual hazards are involved in the operations of all Public Safety Person-

nel and they should all benefit equally.

I hope that I have provided a little information that could be of some help in the passage of a Bill, to furnish some additional financial assistance to Public Safety Officers, that are injured or killed in the line of duty.

Thank you for your efforts on behalf of Fire Fighters and other Public Safety Officers. Your consideration and concern is greatly appreciated.

Yours truly,

DON E. VORHIES, Chief.

CITY OF CINCINNATI, DEPARTMENT OF SAFETY, DIVISION OF FIRE, Cincinnati, Ohio, January 14, 1972.

Dear Senator McClellan: In reply to your letter of December 21, 1971, in which you ask for comments regarding benefit programs for "public safety officers" the following answers are given in response to the questions asked in the memorandum "Public Safety Officers and S. 2994, the "Victims of Crime Act of 1972."

Question 1. What programs are presently available within your jurisdiction in the way of death and dismemberment programs for "public safety officers"

as defined by S. 2994?

ANSWERS

1a. One thousand dollar death benefit paid by the City of Cincinnati.

1b. Nine hundred dollars paid to a member on retirement or to his beneficiary if he dies before retiring. This is a club operated by members at no cost to the city.

1c. Twenty-one thousand dollars job related, death benefit and prorated disability benefits paid for loss of limb, eye, etc. by the Ohio State Workman's

Compensation.

1d. Forty-five hundred dollars death benefit—Cincinnati Fireman's Protective Association owned and operated by active and retired members of the Cincinnati Division of Fire.

Question 2. What costs must be met by those individuals, as well as units of

government covered by these programs?

1a. Entire cost paid by city.

1b. Entire cost paid by members; no cost to city.

1c. Cost paid by city and state contributions based on frequency of accidents and deaths in line of duty.

1d. Entire cost paid by members; no cost to city.

1e. Cost paid by members.

Question 3. How do these insurance costs compare to those incurred by employees other than public safety officers in government and private employment in occupations at the same income levels?

ANSWERS

1a. This city-paid benefit is available for all city employees.

1b. This is a club operated by and paid for by members. This is not insurance. 1c. Cost comparisons of Workman's Compensation in other states not available.

1d. No comparison with other employee-owned mutual benefit associations available.

1e. Insurance costs are the same as for other citizens.

Question 4. Should the programs offered by Titles II and III of S. 2994 supplement or supplant programs currently available to you?

ANSWER

They should supplement programs currently available to us.

Because the programs currently financed by city or state funds are available to all municipal employees. Firefighters, police officers and custodial guards are frequently subjected to overt actions of the criminal, revolutionary or subversive elements of society. This daily exposure to acts of violence with resultant injuries and death makes it imperative that the representatives of law and order, who in the pursuit of their daily jobs and subjected to added risks, derive

greater benefits than persons whose jobs do not expose them to this constant

danger.

Question 5. Which would you prefer; the two-stage or Federal Program envisioned by Title II of S. 2994 or a direct Federal Program or Federal Subsidy of an existing state or local program as suggested by S. 33 and S. 1946?

ANSWER

The two-stage, State, Federal Program as envisioned in Title II of S. 2994 is preferred.

It is believed that this is the better of the plans. It would allow a state to manage its own plan. It would eliminate direct federal subsidy which tends to enlarge Bureaucracy in Washington.

Questition 6. Do you see any long-term danger to the independence of local police forces from the establishment of direct Federal salary-type supplements?

ANSWER

Yes, we believe that the independence of local fire and police forces would be jeopardized by the establishment of direct Federal salary type supplements.

They would lose some freedom in managing their own affairs and they would be faced with Federal requirements that might not work for the good of the local community. It is certain that the Federal Government would be faced with a variety of problems throughout the Nation. The tendency to solve them would be to try and apply the same solution nationwide. This would not work because the problems would not be the same in all areas of the country. With Federal requirements restricting their actions, the fire and police forces would find that their independence has been lessened.

Question 7. Should Congress decide it would be appropriate to enact either Title II (or the alternative of S. 33 or S. 1946) or Title III, but not both, which

would you prefer to see enacted?

ANSWER

We believe that we prefer Title II. It would help protect widows, who in some areas, have poor protection. In Ohio the maximum pension an eligible widow of a firefighter or police officer can receive is \$130.00 per month, which is inadequate. Also, because part of the cost would be borne by the employee and coverage would remain after leaving the service if the insured elects to continue the policy under Section 504. S. 2994. Also, the maximum benefits of \$32,000 rather than \$50,000 is more in line with the National Service Insurance for Military personnel.

Question 8. Should all of those currently covered by the term "public safety officer" be included in the same program? Or would it be advisable to set up

separate programs for each separate category of "public safety officer."

ANSWER

We favor the designation "Public Safety Officer." This designation would mean those officers outlined in the introduction to Title II and III. Specifically, Firefighters, Poilce Officers and Correctional Guards.

Sincerely,

BERT A. LUGANNANI, Fire Chief.

JANUARY 14, 1972.

Senator Edward M. Kennedy, U.S. Senate, Washington, D.C.

Dear Senator Kennedy: In reply to your letter of December 29, 1971, a copy of a letter sent to Senator McClellan in answer to his letter of December 21, 1971, is enclosed. It is believed that the letter to Senator McClellan contains substantially the same information that you are requesting from the Cincinnati Division of Fire.

Our answers to the questions asked on your memorandum regarding alternate versions of Public Safety Officers Group Life Insurance Proposal are as follows:

Question. Do many of the public safety officers you know feel that they do not have enough life insurance?

Answer. Yes, it is believed that most of them feel they do not have enough life insurance to properly protect their families. Most of them, however, buy the amount of protection they can afford.

Question. Is it your impression that many officers feel that their salaries are too low to afford enough life insurance, even if it is available at regular rates?

Answer. I would say that most of them do not feel that their salaries are high enough to permit them to afford the amount of life insurance they would like to have.

Question. Do you think they would want considerably more coverage if it were available at lower cost?

Answer. I believe that many of them would.

Question. Do you know if public safety officers sometimes have trouble buying adequate life insurance? For example, do they sometimes have to pay higher rates, do they encounter reluctance to issue life insurance at all, or do they find important extra benefits, such as double indemnity for accidental death and benefits for accidental loss of eye or limb, either unavailable or more expensive?

Answer. No.

Question. Do you think most of the officers you know would be likely to want to participate in a nationwide, federally supported program of life, accidental death, and dismemberment insurance for public safety officers?

Answer: It is reasonable to believe they would, if they could get good pro-

tection at low cost.

Sincerely,

BERT A. LUGANNANI, Fire Chief.

Buffalo Professional Firefighters Association, Inc., Buffalo, N.Y., January 17, 1972.

Hon. JOHN L. McCLELLAN,

Chairman, Subcommittee on Criminal Laws and Procedures,

U.S. Senate, Washington, D.C.

Dear Sir: In answer to your inquiry, as to comments, concerning benefit programs for "public safety officers" which are currently pending before your Subcommittee on Criminal Laws & Procedures, I would like to offer the following:

ANSWERS TO ILLUSTRATIVE QUESTIONS 1 THRU 8

1. The City of Buffalo allows one year's salary to wife, plus \$1,000 for each child under 18 years of age. This is *only* for a line-of-duty *death*. It does not cover any form of disablement.

2. The City of Buffalo covers the entire cost of the above, with no aid from either the state or federal governments. The individual member does not contribute to this fund. Both this, and the above, apply equally to the members of

the Fire and Police Departments.

3. As far as we know at this time, there is no longer any "penalty" premiums for the hazardous profession of firefighting in present life and accident insurance policies. It seems that since the Insurance Business seems to operate in general on a "group" basis, that individual occupations no longer are specifically considered.

4. As far as supplements are concerned, the present allowance in this city of one year's salary (and then only for a line-of-duty death) allows the survivors to continue to live in a normal manner for merely one year—after which they must either live on a greatly reduced income, or seek financial assistance from some other source (i.e., welfare). In a period of ever increasing costs, any beneficial aid should be in addition to whatever local or personal assistance is available.

5. We prefer a Federal Program as outlined in S. 2994, rather than a subsidized one. A Federally subsidized State Program could be too easily altered to a stage

where it would no longer cover the present intent of the Congress.

6. We do not see where this would eventually create a Federal "take-over" of local police or fire forces, as it is merely a financial assistance program and does not set down any administrative rules for regular duties. It is a form of "G.I. insurance", presently available to the servicemen, and we see no conflict with normal job routine and local government autonomy.

7. If necessary to choose only one part we would prefer Title II since it covers all deaths and disfigurements, and not just those due to criminal offense. While Firefighters are increasingly exposed to additional hazards due to criminal acts,

they are also constantly facing death and serious injury in their "normal" duties

at fires, caused through carelessness, neglect, and natural causes.

While Title III would be an extremely desirable facet, we feel that it gives a heavy preference to the Police officer since almost all of his chances of injury would be directly controlled by a criminal act or acts. The Firefighter faces not only this danger, but also the day to day firefighting hazards that makes our profession the most hazardous occupation in the United States, as determined by the U.S. Dept, of Labor.

8. Yes, we feel that the entire act should be under the all-inclusive Title of "Public Safety Officer" due to the fact that it would make it much easier to administer with one large group, rather than broken down into smaller groups, which would possibly later be sub-divided into yet even smaller specialized groups and make any form of administration a herculean task. The large general grouping would also present a very broad "unit" upon which to base costs, etc. of the program.

ADDENDUM: We should like to point out, or suggest, that under S. 2994; SEC. 458, the term "ARSON" may be open to an interpretation which may not be beneficial to a Firefighter. The term "ARSON" should be supplemented or defined so as to include "incendiarism". It may be difficult to prove arson under some states terminology, but an incendiary fire is criminal in itself and

kills or injures just as readily.

I wish to thank you for any consideration you might give to our comments, and for the opportunity afforded to us to present them to you and your subcommittee.

Sincerely yours,

Patrick J. Mangan Jr.,
President, Buffalo Professional Firefighters Assn. Inc

DUBUQUE FIRE DEPARTMENT, Dubuque, Iowa, January 18, 1972.

Hon. John L. McClellan, U.S. Senate, Washington, D.C.

My Dear Senator: Thank you for the opportunity to comment on upcoming legislation which will benefit "public safety officers". While you letter is dated December 21, I did not get it until last week and I wish I could have studied it a little more carefully. I will follow the illustrative questions as outlined and add a few comments on areas not covered.

At the present time there are no death and dismemberment programs for "public safety officers" as defined by S. 2994 in the State of Iowa for fireflighters, except as provided for in the State Pension laws. Death in the line of duty is

compensated by Chapter 411 of the Code of Iowa as follows:

"9. Accidental death benefit. If, upon the receipt of evidence and proof that the death of a member in service or the chief of police or fire departments was the natural and proximate result of an injury or disease incurred in or aggravated by the actual performance of duty at some definite time and place, or while acting pursuant to order, outside of the city or town by which he is regularly employed, the board of trustees shall decide that death was so caused in the performance of duty there shall be paid, in lieu of the ordinary death benefit provided in subsection 8 of this section, to his estate or to such person having an insurable interest in his life as he shall have nominated by written designation duly executed and filed with the respective board of trustees the benefits set forth in paragraphs "a", "b" and "c" of this subsection:

a. His accumulated contributions; and in addition thereto-

b. A pension equal to one-half of the average final compensation of such member shall be paid to his spouse, children or dependent parents as provided in paragraphs "e", "d" and "e" of subsection 8 of this section. In addition to the benefits for the spouse herein enumerated, there shall also be paid for each dependent child of a member under the age of eighteen years the sum of twenty dollars per month.

c. If there be no spouse, children under the age of eighteen years or dependent parent surviving such deceased member, the death shall be treated as an ordinary death case and the benefit payable in accordance with the provisions of subsection 8, paragraph "b" in lieu of the pension provided in paragraph "b" of this

subsection 9, shall be paid to his estate.

Disease under this subsection shall mean heart disease or any disease of the lungs or respiratory tract and shall be presumed to have been contracted while on active duty as a result of strain or the inhalation of noxious fumes, poison, or gases. (Referred to in subsection 14(b) Provisions of chapter 222, Acts 59GA, respective to Lyly 4, 1050.

retroactive to July 4, 1959.

The cost of the pension program for the member of the Department varies from 4.97 percent for a man entering the service at age twenty-one to 6.05 percent for a man entering at age thirty-five. The cities' contribution is determined by the actuaries (evaluation to be made at least once every five years) and at the present time is 28.10 percent for the fire department and 27.33 percent for the police department.

Straight life insurance must be purchased from private companies by the individual members. There is no additional premium for firefighters except in the area of double indemnity coverage. Double indemnity rate is double for firefighters. The principal difficulty, as I see it, is that a firefighter cannot afford to carry the amount of insurance he should, because of the salary he is paid.

I believe that a direct Federal Program similar to that carried on in World War II for the Armed Forces would be the answer to this situation, and it would

be available to all public safety officers.

There is a definite need that is not included in any of these bills, and that is the plight of the retired public safety officer. It should be remembered that the retirement age varies from the early forties to the late fifties and retirement from disability could come at any age. Let us suppose that a young man of 30 becomes permanently disabled due to a service connected incident. What does he do for life insurance or health insurance? This is one of the real concerns to young men entering the service today. Firefighting was rated the most hazardous occupation in our nation last year, and from the latest reports, shows no signs of improvement. I am sure that there are many firefighters throughout the country that stay on the job years longer than they are allowed to stay in group life and health insurance plans.

Thanking you again for the opportunity to comment, and assuring you of my

desire to cooperate again at any time in the future, I remain

Respectfully,

R. N. DUNPHY, Chief.

International Association of Fire Chiefs, Washington, D.C., January 18, 1972.

Mr. KENNETH A. LAZARUS,

Associate Counsel, U.S. Senate, Subcommittee on Criminal Laws and Procedures, Washington, D.C.

DEAR MR. LAZARUS: This is in regard to your memo on "Public Safety Officers" and S. 2994 "Victims of Crime Act of 1972" and our recent telephone conversation.

This Association is in favor of this bill, particularly as it affects all firefighters. I will not attempt to answer all of the illustrative questions you pose as many of them pertain to local or state jurisdictions. However, I will try to give you our thinking in those areas where we feel competent.

We believe that Titles II and III should be supplementary to current programs. This would tend to give everyone the opportunity to participate in a local program, if desired, and at the same time insure that a minimum of protection was available at all times to everyone. This would also avoid having to discontinue programs now in being which could be politically awkward.

In the event local programs were not available, then Title II makes provi-

sion for the alternative.

The Association would prefer administration of such programs at the state level. This would tend to avoid present fears of encroachment by "big government" and would most likely result in less pressure on individual members of Congress for special considerations at a later date. It would also avoid having to envision a larger establishment for administration of the program which might jeopardize its consideration by Congress.

On the other hand, the would help to reduce fears of state and local officials that when Federal funds are employed, the "strings" attached would tend to abrogate local control. Certainly this is important from the political viewpoint.

We note that Senator McClellan made similar statements to this effect upon

his introduction of the bill.

In the event Congress decided to enact Title II or III but not both, we believe that Title II would be the most appropriate. While the final benefit figure

would not be as attractive as the lump sum of \$50,000, it would force those government entities, not now otherwise insuring their public safety officers, to

do so. We would naturally prefer that both Titles be enacted.

For ease of administration, the "public safety officer" program should cover police, fire, and correction personnel as the bill envisions. To do otherwise would inevitably lead to attempts by otherwise well-meaning but short-sighted individuals or groups to do something for those "most favored" by them. This could easily lead to discrimination and political in-fighting that would disrupt the original intentions of the bill and, perhaps, lead to collapse of the entire program.

Where individual lives are endangered by lawless acts, it is folly to attempt to determine whose life is most endangered or more important than another.

I am happy to provide this material to you. If this Association can be of any further assistance to you at any time, do not hestitate to call upon me.

Sincerely,

Donald M. O'Brien, General Manager.

GREATER KIRKLAND,
DEPARTMENT OF FIRE SERVICES,
Kirkland, Wash., January 20, 1972.

Senator John L. McClellan, U.S. Senate, Senate Office Building, Washington, D.C.

Dear Senator McClellan: I am pleased to be able to respond to your inquiry

regarding S. 2994, S. 33, and S. 1946.

I probably have as many questions as I have answers to your questions. I also understand that Chief Vickery of Seattle is answering your letter. He is sending you a copy of the present Law Enforcement and Fire Fighters Retirement Program in effect in the State of Washington.

This would answer your question #1 and shows the 6% of the employees' salary paid by the employee and 6% paid by the employer as well as those funds contributed by the State. The disability benefits are on and off the job. A man is just as disabled and cannot work and the city loses the man whether the injury was on or off the job. The widow is also covered by 50% of the man's salary.

Our progarm is only for full-time paid personnel. Volunteer firefighters have a different problem. We do have a program for them if they are injured on the job only. A copy of the RCW governing this is enclosed. It does pay up to \$500.00 per month for a limited time and limited medical expenses. It also pays \$1,000.00 to the widow (or children) in the case of death (See items 41.24.150 and 41.24.160 of the enclosed). We have an optional insurance policy for volunteer firefighters in Fire Districts and, as you can see by the enclosed application, the amount of insurance varies with a man's age. The man pays half and the department pays half of the premium. However, this is an optional policy and only about half of my people are covered. It also decreases as an individual gets older. It leaves a little to be desired.

So far the policies are good in our state. But as I understand, it many states have nothing, or practically nothing. This is a terrible condition if they have nothing to fall back on. I also understand the police officers in our state cannot get double indemnity.

However, I do not want to imply that our programs are all that is needed. Our programs do not have mandatory policies for all firefighters and do not allow for

any immediate cash for the immediate problems of a widow.

We do need some type of equal insurance program for all of our people, paid

and volunteer.

I believe your S. 2994 offers public safety officers throughout our country an opportunity to know their families will be partially taken care of in case of serious injury or their death. There are some areas that are having a difficult time recruiting qualified men to serve their communities in these fields because of low salary and high hazard. Your bill would strengthen our recruitment program. Titles II and III of your bill would obtain for many individuals insurance they cannot get or afford. I believe it would create a reasonable fee for insurance because of the size of the program.

There is some concern by me and many of my fellow firefighters relative to the Federal participation in any program. The question most often asked is "Would the Federal Government drop out after a few years and leave the program high

and dry?" Since our people are with us for many years, this is a concern. "Will there be any serious strings attached?" is another question. Although we recognize there would have to be some, we would not want to water down local or state control. I believe the State-Federal approach is better. This might also head off any danger to the independence of local agencies.

If I had to make a choice between Title II and Title III of your bill, I would choose Title II for our state because of our Pension Act for paid personnel. However, I feel there is a real need for Title III as well, especially for Volunteer and

Call firefighters.

Another question relative to the death or disability of a public safety officer "as a result of a criminal act in the line of duty" is whether or not guilt on the part of someone has to be established before payment is made? An example in the fire service would be the death or disability of a firefighter in a building fire created by an act of arson. Since arson is very difficult to get a conviction on, this could water down the effectiveness of this part of the bill for firefighters.

I think it would be prudent to keep all "public safety officers" under one program. Since death for any cause has the same lingering effect, there would remain a strength in the number of persons belonging to a single program, be easier to

administer, and probably carry a cheaper premium.

Those individuals who give of their time, and sometimes their lives, to protect their communities from the violence perpetrated in our country deserve all of the attention and consideration due them. I believe S. 2994 does contribute to that consideration.

If I can be of any further help, please feel free to call on me.

Most sincerely,

ROBERT H. ELY, Chief of Fire Services.

ABOUT

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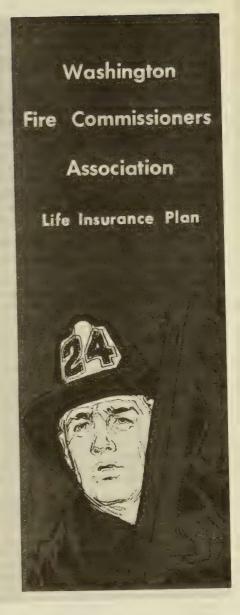
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INDIVIDUAL POLICIES providing insurance for reducing amounts issued on Annual Renewable Term to age 70 forms available at all ages up to and including age 69.

CONVERTIBLE without evidence of insurability to any life or endowment policy of equal or smaller face amount at any time prior to policy anniversary upon which the insured attains age 65.

DISABILITY Policies issued at age 59 and younger will contain a provision that if total and permanent disability occurs before age 60 and continues for at least 6 months, premium payments are waived during the period of such disability.

GUARANTEED RENEWABLE Policies are guaranteed renewable to the anniversary nearest the insured's attainment of age 70 upon payment of premiums.

LIMITATIONS Military rider may be necessary under special circumstances.

BENEFICIARY The insured may designate the beneficiary of his choice and may change the beneficiary at any time upon application to the Company. Policy proceeds may be paid to beneficiary in installments over a period of years instead of in a lump sum, if desired.

THE PLAN

Guaranteed renewable term to age 70 with conversion privilege to age 65. Waiver of premium disability benefit is included in policies issued under age 60, nearest birthday.

OWNERSHIP of policy may be vested in third party if such arrangement is desired.

DIVIDENDS Dividends if earned are paid annually beginning at the end of the second year. Dividends may be taken in cash, applied to reduce premiums, or left with the Company to accumulate with interest.

SCHEDULE OF BENEFITS (Premium — \$10 Quarterly)

Age Nearest Birthday	Amount Of Insurance
Under 40	\$10,000.00
40 - 49	5,000.00
50 - 54	2,500.00
55 - 59	1,750.00
60 - 64	1,200.00
65 - 69	1,000.00
70 & Over	0



APPLICATION TO SECURITY BENEFIT LIFE INSURANCE COMPANY

For insurance on the	plan for amount of \$	on the life of (Proposed Insured):
(Full Name)	(Number and Street)	(City and State)
1. Date of Birth 2. Age	3. Marital Status	4. Sex
5. Place of Birth	6. He	ight 7. Weight
8. Occupation 9. Name a	and Address of Employer	
10. Has Proposed Insured ever had or been told that he/she had (at	nswer "yes" or "no" to eac	ch question);
(a) Any disease of the heart, arteries, kidneys, and/or high bl	ood pressure?	
(b) Any disease of the stomach, intestines, or liver?		
(c) Any tumor, or other disease, impairment or disability not in If answered "yes", give details under "Remarks".	ndicated above?	
11. Name and Address of Proposed Insured's family doctor		
12 Date of last treatment by a doctor	13. For What?	
14. Beneficiary (Print full names and show relationships to propos	ed insured) with right to ch	ange beneficiary reserved:
Principal		
Contingent		
15. The Applicant shall be owner of any policy issued upon this a	pplication, unless otherwise	indicated in "Remarks".
16. Premium notices to be sent to		City and State
17. Remarks (additional information)		
Home Office Amendments - Do not write in this space		
Proposed Insured and Applicant hereby consent to the insurance a statements indicated above and all such answers and statements are They agree that the above answers and statements are offered to issued thereon. Further, it is understood and agreed (1) that acception of the manner in which it is written and of any corrections, entitled "flome Office Amendments", except there can be no charagreed to in writing; and (2) that the insurance applied for shall Company at its Home Office and a full first premium according to the policy delivered and accepted by the Applicant while the Proplants of the Amendments of the policy delivered and accepted by the Applicant while the Proplants and the application above.	re full, complete, and true to the commany as a conside ptance of any policy issued additions or changes made lage of amount, classification take effect unless and the Company's published rate company's published rate.	o the best of their knowledge and belief, ration for and shall be part of any policy pursuant hereto shall constitute ratifica- by the Company and entered in the space or, kind of insurance, or benefits, unless until this application is approved by the es in use on this date has been paid and
Any doctor, hospital, clinic or other person who has treated or exa Benefit Life Insurance Company any information so acquired, to th used in lieu of original.		
Dated at, this	day of	, 19
Licensed Resident Agent Signature of Propos	ed Insured	Signature of Applicant, if other than Proposed Insured
,		Address

FORM L. 640



WHY SHOULD YOU CONSIDER THIS LIFE INSURANCE PLAN?

BECAUSE no matter what other life insurance you may now have, most of us are "under-insured" by today's standards. This Insurance Program was, therefore, established as an excellent supplement to any other life insurance you may now have.

BECAUSE in these days of spiraling inflation and resulting high prices, this additional life insurance can help assure a college education for your children — can assure your family of getting along in the accustomed way, in the event of your death.

BECAUSE these low rates make it possible for you to obtain adequate insurance to help pay off a mortgage, to provide a "rent-free" home, to pay estate taxes or to take care of whatever other heavy financial obligations you might have — in case you're not around.

WHY ACT NOW?

Life Insurance is the one protection you can't purchase when you need it most. This is your opportunity to protect yourself, your family, and your business with High-Limit, Low-Cost life insurance.

WHO IS ELIGIBLE? Only members in good standing of the Washington Fire Commissioners Association are eligible for this coverage and service. New members of the Association may make application for insurance after they have been in a District six months. Application will be made on the same basis as original members made application.

ADMINISTERED BY—The Plan of insurance is administered by KEHLE & HAWLEY, 323 1411 Fourth Avenue Building, Seattle, Washington 98101.

MAKING APPLICATION—After the proposed insured categorizes himself in relation to age by using the Schedule of Benefits illustrated in this brochure, he will then make a check or money order payable to KEHLE & HAWLEY, the Administrator. The check or money order should be in the amount of \$10.00.

For Example:

If the prospective insured has attained age 45, nearest birthday, but has not at time of application reached age 50, nearest birthday, he is eligible for \$5,000.00 of coverage.

VOLUNTEER FIREMEN'S RELIEF AND PENSION ACT

- (Eligibility-Any active volunteer fireman, of a political sub-division of the state authorized by law to provide fire protection within its boundaries, is eligible for coverage)
 - I. DISABILITY AND DEATH INSURANCE—INJURIES AND DEATH IN LINE OF DUTY (MANDATORY UNDER STATE LAW)

A. COST

(1) \$5.00 per man per year paid by municipality.

(2) Full paid firemen covered for 1% of annual salary instead of \$5.00 fee. (until 3/1/1970) B. BENEFITS

(1) Medical as necessary—limited to Labor and Industries' fee schedule. (2) Hospital-Board and room limited to ward rate for 26 weeks (plus hospital extras such as x-rays, laboratory, etc.)

(3) Time Loss

- (a) \$500.00 a month for first 6 months. (b) After first 6 months, drops to \$250.00 a month plus \$50.00 for wife plus \$25.00 for youngest child under 18 years of age, plus \$20.00 for each additional such child to a maximum of \$500.00 a month.
- (4) Death-\$1,000.00. (5) Funeral-\$500.00.

(6) Survivor

(a) \$100.00 a month for widow plus \$25.00 for youngest dependent child undre 18 years of age, plus \$20.00 for aech additional such child to a maximum of \$200.00 a month. Stops on marriage.

(b) Widow may take a lump sum settlement of \$8,500.00 in lieu of monthly

pension.

- C. ACCIDENT REPORTS-MUST BE SUBMITTED TO THE STATE BOARD WITHIN 90 DAYS FROM DATE OF ACCIDENT
- II. PENSION PLAN-OPTIONAL (DISTRICT MUST BY RESOLUTION AND CITY OR TOWN BY ORDINANCE PERMIT ITS FIREMEN TO PARTICIPATE BEFORE ANY ENROLL)

A. COST

(1) \$10.00 per year paid by district or municipality.

(2) \$12.00 per year paid by the fireman.

B. BENEFITS-25 YEARS SERVICE REQUIRED TO QUALIFY

(1) Pension of \$75.00 a month paid at age 65 after 25 annual premium payments

(2) 60% of earned pension payable at age 60.

(3) 75% of earned pension payable at age 62.

(4) Decision to claim early pension in (2) and (3) above is irrevocable.

- (5) Credit is given for service rendered prior to enrollment in pension plan if such srevice was in a department that has made the pension plan available to its firemen.
- (6) Retirement permissible after 25 years service. A fireman retiring before age 55 must pay \$22.00 each year up to and including the year of his 55th birthday to qualify.

(7) The fireman's share of pension fees are fully refundable to him if he

leave sthe fire service; to his widow, or to his estate if he dies.

(8) Pension benefits cease on death of pensioner.

(9) Enrollment in pension plan can be made at any time of the year.

(10) Firemen completing 25 years service but not 25 annual payments will have pension computed as follows: \$25.000 per month minimum plus \$2.00 per month for each year paid.

EVERYTHING PERTAINING TO THE VOLUNTEER FIREMEN'S RELIEF AND PENSION ACT IS ADMINISTERED BY A LOCAL BOARD OF TRUSTEES SET UP FOR EACH FIRE DEPART-MENT (SEE RCW 41.24.060 FOR COMPOSITION OF BOARD)

Volunteer Firemen's RELIEF AND PENSION ACT

CHAPTER 41.20 RCW



Published by

STATE BOARD FOR VOLUNTEER FIREMEN

BOARD MEMBERS HERBERT FAUBION, JR., Secretary

MITCHELL DOUMIT, Chairman P. O. Box 114 CHESTER KIRK

OLYMPIA

ROBERT MASTERMAN



Printed June 1969

For special attention of City and Town Clerks and Secretaries of Fire Protection Districts

In administering the Volunteer Firemen's Act, the first thing to bear in mind is that all contacts with the State Board's office should be through the officials of the municipality, whether it be a city, town, or fire protection district. The city or town clerk and the secretary of the fire protection district should handle all correspondence, since they are ex-officio secretaries of your local board of trustees which must approve all claims for payment. Secretaries should keep a file of correspondence, in which should be kept all letters received from the State Board, carbon copies of their own letters and duplicate copies of all reports of organizations, remittances, reports of accidents, and any other documents that pertain to the Fund. Correspondence and reports should be prepared on a typewriter wherever possible. List your Board of Trustees and also the name and address of your Secretary.

S.F. 4497—Remittance

Form No. 4497 is the form to be used for payment of annual dues.

Fill in the spaces at the top with the name of your municipality, county and date. Names of the individual firemen must always be shown. They should always be listed exactly the same as the previous year and the names should be listed alphabetically. The usual fee of \$5.00 being paid entirely by the municipality should appear in that column.

Where firemen are taking advantage of the pension plan, the municipal fee of \$15.00 should appear in the first column and the firemen's fee of \$12.00 in the second column.

This report and remittance is due on or before the 1st day of March every year—not every other year or just "now and then." It will be appreciated if special attention can be given to this item. Furthermore, do not send in the report unless you are making your remittance. Also, do not send in your remittance unless you send in your report, and be sure to mail as directed on the bottom of the sheet. Remember, the fee must be paid for each and every fireman enrolled for each calendar year. The fee cannot be pro-rated for any portion of a year, nor can it be transferred from one membership to another.

S.F. 7476—Application for Membership

Our law does not make a physical examination of new firemen mandatory. It may be important, however, for a new applicant to pass a physical examination by a conscientious physican before being enrolled as a fireman. If one is not physically qualified, he really should not be permitted to serve on active duty. Form 7476 has been devised for such examinations and can be secured from Board for Volunteer Firemen on request. A fee of not to exceed \$5.00 is allowable for the initial examination of new members and is payable from the Volunteer Firemen's Relief and Pension Fund. In making claim for his services, a doctor may list the names of all persons examined and date of each examination on a state invoice voucher. A completed Form 7476 for each member examined must accompany the invoice voucher.

S.F. 5580—Report of Accident

In case of accident "in line of duty" a Report of Accident should be prepared at once while the circumstances are fresh in the minds of all

concerned. There have been too many instances in which the first information regarding an accident was a statement from a doctor for "Medical Services Rendered," which may have arrived several months or a year after the accident occurred. This really is a time when the Secretary should show some action. He should

- 1. Complete the ACCIDENT REPORT at once and send it to the State Board. Report MUST BE RECEIVED by the State Board within 90 days from the date of the accident.
- 2. Instruct the hospital, doctor, and any others having claims to send their invoices to HIMSELF for the preparation of claims, and not to the State Board.
- 3. See that the invoice vouchers are properly prepared, and approved by the Local Board, before transmitting them to the State Board.

S. F. A 19—Invoice Voucher

- 1. In the box at the upper left hand corner insert the name and address of the claimant. Please remember that this should be the name of the person or firm that is to receive the payment and should be the same as appears as the signature to the vendor's certificate.
- 2. The body of the voucher should show the account in complete detail, including each and every charge, the date and the rate charged. This is necessary for the reason that the law provides the fees charged shall be in accordance with the schedule adopted by the Department of Labor and Industries under the Workmen's Compensation Act. Copies of this schedule are available to all doctors throughout the State. It is the duty of the State Board to verify these charges before approving the voucher for payment. After the vouchers have been completed, they should be signed by the claimant, approved by the local Board of Trustees, and signed by the Chairman and Secretary thereof. The vouchers should then be forwarded to the State Board. Warrants will be issued and mailed directly to the local Board Secretary for distribution.

In case of injury, in line of duty, hospital care is allowable at the ward rate of the hospital for not exceeding 26 weeks. Firemen injured in line of duty are entitled to disability compensation at the rate of \$500.00 per month for not to exceed 6 months, after which the rate drops to \$250.00 per month for as long as the total disability continues. In addition to the \$250.00, a fireman is allowed \$50.00 per month for a wife, plus \$25.00 per month for the youngest dependent child under the age of 18 years, plus \$20.00 per month for each additional such child to a maximum of \$500.00 per month. A widow's pension is provided for firemen killed in line of duty or in lieu of the pension, a widow may take a lump sum settlement of \$8,500.00. There is also a \$1,000.00 death and a \$500.00 funeral benefit payable because of a death in line of duty.

Be sure to follow these instructions closely and in detail so that the vouchers may be passed for payment, if at all possible, without having to return them for additional information or correction. Handling the affairs of the Fund in a thorough and businesslike manner may mean a little more effort on the part of the Secretary, but it will relieve us of a lot of worry and inconvenience, and will be greatly appreciated. We know those having claims against the Fund will appreciate getting paid more promptly.

THINGS TO REMEMBER

- Send all fees, forms and correspondence pertaining to this act to the State Board for Volunteer Firemen, P. O. Box 114, Olympia 98501.
- 2. Submit all invoice vouchers in triplicate.
- 3. Have medical, hospital and other bills itemized on invoice voucher.
- 4. It is necessary to send accident report with first invoice voucher submitted because of the accident, if report has not been sent previously.
- 5. It is necessary that one copy of S. F. No. 7476 for each physical examination be submitted to the State Board before doctor's bill for same can be paid.
- 6. Annual fees are delinquent after March 1st of each year and subject to one per cent (1%) per month interest penalty from that date until paid.
- 7. Send check to cover names submitted on S. F. No. 4497 in same envelope as form listing names of your firemen.
- Be sure that accident reports and invoice vouchers have been approved and signed by your Local Board of Trustees before sending them to this office.
- 9. Accident reports MUST BE IN OFFICE OF STATE BOARD WITHIN 90 DAYS FROM DATE OF ACCIDENT, NO EXCEPTIONS.
- 10. Pay annual premium on new members as soon as possible after they join the department.
- 11. List birth dates of each fireman on the remittance form in column provided.
- 12. Departments, not already participating, should give serious consideration to the pension part of the Volunteer Firemen's Relief & Pension Act.
- 13. Credit for service rendered prior to enrollment in the pension plan can now be given to past and to future enrollees, who are active firemen, providing such service was rendered in a fire department that has made the pension plan available to its firemen.
- 14. The fireman's share of the pension premium is fully refundable whenever he leaves the fire service.

Chapter 41.24

VOLUNTEER FIREMEN'S RELIEF AND PENSIONS

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Fire protection districts: Title 52. relief Firemen's and pensions: Chapter 41.16, 41.18.

Prior acts relating to volunteer firemen's relief and pensions:

(1) 1935 c 121 (repealed by 1945 c

(2) Benefits extended to volunteer firemen of fire protection districts 1943 c 137.

41.24.010 **Definitions**. As used in this chapter:

"Municipal corporation" or "municipality" includes any city or town, fire protection district, or any water, irrigation, or other district, authorized by law to afford protection to life and property within its boundaries from fire.

"Fire department" means any regularly organized fire department consisting wholly of volunteer firemen, or any part-paid and part-volunteer fire department duly organized and maintained by any municipality: Provided, That any such municipality wherein a part-paid fire department is maintained may by appropriate legislation permit the full-paid members of its department to come under the provisions of chapter 41.16.

"Firemen" includes any fireman who is a member of any fire

department of any municipality.

"Performance of duty" shall be construed to mean and include any work in and about company quarters or any fire station or any other place under the direction or general orders of the chief or other officer having authority to order such member to perform such work; responding to, working at, or returning from an alarm of fire; drill; or any work performed of an emergency nature in accordance with the rules and regulations of the fire department.

"State board" means the state board for volunteer firemen created herein.

"Appropriate legislation" means an ordinance when an ordinance is the means of legislating by any municipality, and resolution in all other cases. [1955 c 263 § 1; 1945 c 261 § 1; Rem. Supp. 1945 § 9578-15.7

Fire protection district having full

paid fire department: RCW 41.16.240.

Construction, saving: "Any provisions of chapter 41.24 RCW inconsistent with the provisions of this act are hereby repealed: Provided, That such repeal shall not affect any act or proceeding had or pending, under such provision repealed, but the same shall be construed and prosecuted as though such provision had not been repealed." [1955 c 263 § 12.] This applies to RCW 41.24.010, 41.24.080, 41.24.120 and 41.24.250

through 41.24.310.

Severability: "If any provision of this act, or the application thereof to any person or circumstance, is held invalid, the remainder of the act, and the application of such provision to other persons or circumstances, shall not be affected thereby. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of

the remaining portions of this act. The legislature hereby declares that it would have passed this act and each section, subsection, clause and phrase thereof irrespective of the fact that any one or more of the other sections, subsections, sentences, clauses, and phrases be declared unconstitutional." [1945 c 261 § 26.]

Construction, saving: "Chapter 121,

Construction, saving: "Chapter 121, Laws of 1935 (sections 9578-1 to 9578-11, inclusive, Remington's Revised Statutes, also Pierce's Perpetual Code 773-37 to -57), is hereby repealed: *Provided*, That such repeal shall not be construed as affecting any act done or right acquired, or obligation incurred, or proceedings had or pending, under said act repealed, but the same shall be continued and prosecuted as though such act had not been repealed." [1945 c 261 § 27.]

The two foregoing annotations apply to RCW 41.24.010 through

41.24.240.

- 41.24.020 Enrollment of firemen—Death, disability, retirement benefits. (1) Every municipal corporation maintaining and operating a regularly organized fire department shall make provision by appropriate legislation for the enrollment of every fireman under the relief and compensation provisions of this chapter for the purpose of providing protection for all its firemen and their families from death or disability arising in the performance of their duties as firemen: *Provided*, That nothing herein shall prohibit any municipality from providing such additional protection for relief and compensation, or death benefit as it may deem proper.
- (2) Any municipal corporation maintaining and operating a regularly organized fire department may make provision by appropriate legislation whereby any fireman may enroll under the pension provisions of this chapter for the purpose of enabling any fireman, so electing, to avail himself of the retirement provisions of this chapter.
- (3) Every municipal corporation shall make provisions for the collection and payment of the fees as herein provided, and shall continue to make such provisions for all firemen who come under this chapter as long as they shall continue to be members of its fire department. [1945 c 261 § 2; Rem. Supp. 1945 § 9578-16.]
- 41.24.030 State trust fund created—Composition—Investment—Use—Treasurer's report. There is created in the state treasury a trust fund for the benefit of the firemen of the state covered by this chapter, which shall be designated the volunteer firemen's relief and pension fund and shall consist of:
- (1) All bequests, fees, gifts, emoluments, or donations given or paid to the fund.
- (2) An annual fee for each member of its fire department to be paid by each municipal corporation for the purpose of affording the members of its fire department with protection from death or disability as herein provided as follows:
- (a) three dollars for each volunteer or part-paid member of its fire department;

- (b) a sum equal to one-half of one percent of the annual salary attached to the rank of each full-paid member of its fire department.
- (3) Where a municipal corporation has elected to make available to the members of its fire department the retirement provisions as herein provided, an annual fee of twenty-two dollars for each of its firemen electing to enroll therein, ten dollars of which shall be paid by the municipality and twelve dollars of which shall be paid by the fireman.
- (4) Forty percent of all moneys received by the state from its tax on fire insurance premiums shall be paid into the state treasury and credited to the fund.
- (5) The state finance committee, upon request of the state treasurer shall invest such portion of the amounts credited to the fund as is not, in the judgment of the treasurer, required to meet current withdrawals. Such investments may be made in such bonds, notes or other obligations now or hereafter authorized as an investment for the funds of the state employees' retirement system.
- (6) All bonds or other obligations purchased according to subdivision (5) shall be forthwith placed in the custody of the state treasurer, and he shall collect the principal thereof and interest thereon when due.

The state finance committee may sell any of the bonds or obligations so acquired and the proceeds thereof shall be paid to the state treasurer.

The interest and proceeds from the sale and redemption of any bonds or other obligations held by the fund shall be credited to and form a part of the fund.

All amounts credited to the fund shall be available for making

the payments required by this chapter.

The state treasurer shall make an annual report showing the condition of the fund. [1967 c 160 \S 2; 1957 c 116 \S 1; 1955 c 223 \S 1; 1945 c 261 \S 3; Rem Supp. 1945 \S 9578-17. Prior: 1935 c 121 \S 1; RRS \S 9578-1.]

Transfer of funds: "All moneys now in, or which shall hereafter be payable to, the volunteer firemen's relief and compensation fund, are hereby transferred to, and shall hereafter be payable to, the volunteer firemen's relief and pension fund, which is created as, and shall

be a trust fund for the benefit of the firemen of the state of Washington as in this act provided, and the volunteer firemen's relief and compensation fund is hereby abolished." [1945 c 261 § 25; Rem. Supp. 1945 § 9578-39.] This applies to RCW 41.24.010 through 41.24.240.

- 41.24.031 Additional fees. In addition to the fees prescribed in RCW 41.24.030(2) the following fees shall be collected to finance the additional benefits conferred by this 1965 amendatory act:
- (1) Two dollars per year for each volunteer or part-paid member of its fire department; and

(2) A sum equal to one-half of one percent of the annual salary attached to the rank of each full-paid member of its fire department.

These fees shall be paid into the volunteer firemen's relief and pension fund by each municipal corporation on behalf of the members of its fire department. [1965 c 86 § 4.]

Reviser's note: "this 1965 amendatory act" is codified as RCW 41.24.031, 41.24.150, 41.24.160 and 41.24.220.

Severability: "If any provision of this 1965 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the 1965 amendatory act, or the application of the provision to other persons or circumstances is not affected." [1965 c 86 § 5.]

Effective date: "The effective date

effective date: "The effective date of this 1965 amendatory act is July 1, 1965." [1965 c 86 § 6.] The foregoing annotations apply to RCW 41.24.031 and the 1965 amendments of RCW 41.24.150, 41.24.160 and 41.24.220.

41.24.040 Fees, when payable—Interest—Effect of nonpayment. On or before the first day of March of each year, every municipal corporation shall pay such amount as shall be due from it to said fund, together with the amounts collected from the firemen of its fire department: Provided, That no fireman shall forfeit his right to participate in the relief and compensation provisions of this chapter by reason of nonpayment: Provided further, That no fireman shall forfeit his right to participate in the retirement provisions of this chapter until after March 1st of such year: And provided further, That where a municipality has failed to pay or remit the annual fees required within the time provided such delinquent payment shall bear interest at the rate of one percent per month from March 1st until paid: And provided further, That where a fireman has forfeited his right to participate in the retirement provisions of this chapter he may be reinstated so as to participate to the same extent as if all fees had been paid by the payment of all back fees with interest at the rate of one percent per month provided he has at all times been otherwise eligible. [1945 c 261 § 4; Rem. Supp. 1945 § 9578-18. Prior: 1935 c 121 § 10; RRS § 9578-10.]

41.24.050 Limitation of membership of volunteer fire departments. Each municipal corporation shall by appropriate legislation limit the membership of its volunteer fire department to not to exceed twenty-five firemen for each one thousand population or fraction thereof: *Provided*, That in no case shall the membership of any fire department coming under the provisions of this chapter be limited to less than fifteen firemen. [1945 c 261 § 5; Rem. Supp. 1945 § 9578-19. Prior: 1935 c 121 § 9; RRS § 9578-9.]

41.24.660 Board of trustees—How constituted. In every municipal corporation maintaining a regularly organized fire department there is hereby created and established a board of trustees for the

administration of this chapter. Such board shall consist of the mayor, city clerk or comptroller, and one councilman of such municipality, the chief of the fire department, and one member of the fire department to be elected by the members of such fire department for a term of one year and annually thereafter. Where a municipality is governed by a board, the chairman, one member of the board and the secretary or clerk thereof shall serve as members of said board in lieu of the mayor, clerk or comptroller and councilman. [1945 c 261 § 6; 1943 c 137 § 2; Rem. Supp. 1945 § 9578-20. Prior: 1935 c 121 § 2; RRS § 9578-2.]

41.24.070 Officers of board—Record of proceedings—Forms. The mayor or chairman of the board or commission of any such municipality shall be chairman of the board of trustees, and the clerk or comptroller or secretary of any such municipality, board or commission shall be the secretary-treasurer of the board of trustees. The secretary shall keep a public record of all proceedings, of all receipts and disbursements made by the board of trustees and shall make an annual report of its expenses and disbursements with a full list of the beneficiaries of said fund in such municipality, such record to be placed on file in such municipality. Such forms as shall be necessary for the proper administration of this fund and of making the reports required hereunder shall be provided by the state board. [1969 c 118 § 1; 1945 c 261 § 7; Rem. Supp. 1945 § 9578-21. Prior: 1935 c 121 § 3; RRS § 9578-3.]

41.24.080 Duties of board and state board—Disbursements. The board of trustees of each municipal corporation shall provide for enrollment of all members of its fire department under the death and disability provisions hereof; receive all applications for the enrollment under the retirement provisions hereof when the municipality has elected to enroll thereunder; provide for disbursements of relief and compensation; determine the eligibility of firemen for pensions; and pass on all claims and direct payment thereof from the volunteer firemen's relief and pension fund to those entitled thereto. Vouchers shall be issued to the persons entitled thereto by the board. It shall send to the state board, after each meeting, a voucher for each person entitled to payment from the fund, stating the amount of such payment and for what granted, which voucher shall be certified and signed by the chairman and secretary of the board. The state board, after review and approval shall cause a warrant to be issued on the fund for the amount specified and approved on each youcher: Provided, That in pension cases after the applicant's eligibility for pension is verified the state board shall authorize the regular issuance of monthly warrants in payment thereof without further action of the board of trustees of any such municipality. [1969 c 118 § 2; 1955 c 263 § 9; 1945 c 261 § 8; Rem. Supp. 1945 § 9578-22. Prior: 1935 c 121 § 2; RRS § 9578-2.]

- 41.24.090 Meetings. Said board of trustees shall meet on the call of its chairman on a regular monthly meeting day when there is business to come before it. The chairman shall be required to call a meeting on any regular meeting day at the request of any member of the fund or his beneficiary claiming any relief, compensation or pension therefrom. [1945 c 261 § 9; Rem. Supp. 1945 § 9578-23.]
- 41.24.100 Compelling attendance of witnesses—Oaths—Rules and regulations. The board of trustees herein, in addition to other powers herein granted, shall have power to compel the attendance of witnesses to testify before it on all matters connected with the operation of this chapter, and its chairman or any member of said board may administer oaths to such witnesses; to make all necessary rules and regulations for its guidance in conformity with the provisions of this chapter: *Provided*, *however*, That no compensation or emoluments shall be paid to any member of said board of trustees for any duties performed under this chapter as such trustees. [1945 c 261 § 1; Rem. Supp. 1945 § 9578-24. Prior: 1935 c 121 § 2; RRS § 9578-2.]
- 41.24.110 Employment of examining physician. The board shall make provisions for the employment of a regularly licensed practicing physician for the examination of members of fire departments making application for membership. Such appointed physician shall visit and examine all sick and injured firemen, perform such services and operations and render all medical aid and care necessary for the recovery of firemen on account of sickness or disability received while in the performance of duties. Such appointed physician shall be paid his fees from said fund but not in excess of the schedule of fees for like services approved by the director of labor and industries under Title 51. No. physician or surgeon, not approved by the board, shall receive or be entitled to any compensation from said fund as the private or attending physician of any fireman. No person shall have any right of action against the board of trustees of said fund for the negligence of any physician or surgeon employed by it. Any physician employed by the board to attend upon any fireman shall report his findings in writing to said board. [1953 c 253 § 6; 1949 c 145 § 1; 1945 c 261 § 11; Rem. Supp. 1949 § 9578-25. Prior: 1935 c 121 § 2; RRS § 9578-2.]
- 41.24.120 Hearing of application for benefits—Appeal to state board. The *local* board shall *initially* hear and decide all applications for relief or compensation and pensions under this chapter, subject to review by, or appeal by the proper person to, the state board

where decision on such review or appeal shall be final and conclusive. [1969 c 118 § 3; 1955 c 263 § 10; 1945 c 261 § 12; Rem. Supp. 1945 § 9578-27. Prior: 1935 c 121 § 2; RRS § 9578-2.]

- 41.24.130 Quorum—Vote on allowance of claims. A majority of the board of trustees shall constitute a quorum, and no business shall be transacted when a majority is not present, and no claim shall be allowed where a majority of the board has not voted favorably thereon. [1945 c 261 § 13; Rem. Supp. 1945 § 9578-27. Prior: 1935 c 121 § 2; RRS § 9578-2.]
- 41.24.140 Guardian may be appointed. Said board of trustees shall have the power and authority to ask for the appointment of a guardian whenever and wherever the claim of a fireman or his beneficiary would, in the opinion of the board, be best served thereby. The board shall have full power to make and direct the payments herein provided for to any person entitled thereto without the necessity of any guardianship or administration proceedings, when in its judgment, it shall determine it to be for the best interests of the beneficiary. [1945 c 261 § 14; Rem. Supp. 1945 § 9578-28. Prior: 1935 c 121 § 2; RRS § 9578-2.]
- 41.24.150 Disability payments. Whenever a fireman serving in any capacity as a member of a fire department subject to the provisions of this chapter becomes physically or mentally disabled, or sick, in consequence or as the result of the performance of his duties, so as to be wholly prevented from engaging in each and every duty as his regular occupation, business or profession, he shall be paid from the fund monthly, the sum of five hundred dollars for a period of not to exceed six months, or sixteen dollars and sixty-seven cents per day for such period as is part of a month, after which period if the member is incapacitated to such an extent that he is thereby prevented from engaging in any occupation or performing any work for compensation or profit, he shall be entitled to draw from the fund monthly, the sum of two hundred fifty dollars so long as the disability continues, except as hereinafter provided: Provided, That if the member has a wife or husband and/or a child or children unemancipated or under eighteen years of age, he shall be entitled to draw from the fund monthly the additional sums of fifty dollars because of the fact of his wife or husband, twenty-five dollars because of the fact of his youngest or only child unemancipated or under eighteen years of age, and twenty dollars because of the fact of each additional child unemancipated or under eighteen years of age, all to a total maximum amount of five hundred dollars. The board may at any time reopen the grant of such disability pension if the pensioner is gainfully employed, and may reduce it in the proportion that the annual income from such gainful

employment bears to the annual income received by the pensioner at the time of his disability: *Provided*, That where a fireman sustains a permanent partial disability the state board may provide that such injured fireman shall receive a lump sum compensation therefor to the same extent as is provided for permanent partial disability under the workmen's compensation act under Title 51 in lieu of such monthly disability payments. [1969 c 118 § 4; 1965 c 86 § 1; 1957 c 159 § 1; 1953 c 253 § 1; 1945 c 261 § 15; Rem. Supp. 1945 § 9578-29. Prior: 1935 c 121 § 4; RRS § 9578-4.]

41.24.160 Death benefits. Whenever a fireman dies as the result of injuries received, or sickness contracted in consequence or as the result of the performance of his duties, the board of trustees shall order and direct the payment of the sum of one thousand dollars to his widow, or if there be no widow, then to his dependent child or children, or if there be no dependent child or children, then to his parents or either of them, and the sum of one hundred dollars per month to his widow during her life together with the additional monthly sums of twenty-five dollars for the youngest or only child and twenty dollars for each additional child of the member, unemancipated or under eighteen years of age, dependent upon the member for support at the time of his death, to a maximum total of two hundred dollars per month: Provided, That if there is no widow, or the widow dies while there are children, unemancipated or under eighteen years of age, then the amount of one hundred dollars per month shall be paid for the youngest or only child together with an additional twenty dollars per month for each additional of such children to a maximum of two hundred dollars per month until they become emancipated or reach the age of eighteen years; and if there are no widow, child or children entitled thereto, then to his parents or either of them the sum of one hundred dollars per month for life, if it is proved to the satisfaction of the board that the parents, or either of them, were dependent on the deceased for their support at the time of his death: Provided. That if the widow, child or children, or the parents, or either of them, marry while receiving such pension the person so marrying shall thereafter receive no further pension from the fund.

In the case provided for herein, the monthly payment provided may be converted in whole or in part, into a lump sum payment, not in any case to exceed eight thousand five hundred dollars, equal or proportionate, as the case may be, to the value of the annuity then remaining, to be fixed and certified by the state insurance commissioner, in which event the monthly payments shall cease in whole or in part accordingly or proportionately. Such conversion may be made either upon written application to the state board and

shall rest in the discretion of the state board; or the state board is authorized to make, and authority is hereby given it to make, on its own motion, lump sum payments, equal or proportionate, as the case may be, to the value of the annuity then remaining in full satisfaction of claims due to dependents. Within the rule aforesaid the amount and value of the lump sum payment may be agreed upon between the applicant and the state board. Any person receiving a monthly payment hereunder at the time of the effective date of this act may elect, within two years, to convert such payments into a lump sum payment as herein provided. [1965 c 86 § 2; 1961 c 57 § 1; 1957 c 159 § 2; 1953 c 253 § 2; 1951 c 103 § 2; 1945 c 261 § 16; Rem. Supp. 1945 § 9578-30. Prior: 1935 c 121 § 6; RRS § 9578-6.]

Reviser's note: The language "the effective date of this act" first appears in 1961 c 57 which became ef-

fective at midnight June 29, 1961; see preface 1961 session laws.

41.24.170 Retirement pensions. Whenever any fireman has been a member and served honorably for a period of twenty-five years or more as an active member in any capacity, of any regularly organized volunteer fire department of any municipality in this state, and which municipality and fireman are enrolled under the retirement provisions, and the fireman has reached the age of sixty-five years. the board of trustees may order and direct that he be paid a monthly pension of twenty-five dollars from the fund.

Whenever a fireman has been a member, and served honorably for a period of twenty-five years or more as an active member in any capacity, of any regularly organized volunteer fire department of any municipality in this state, and the annual retirement fee has been paid for a period of twenty-five years, the board of trustees shall order and direct that such fireman be paid a monthly pension of seventy-five dollars from the fund upon his attaining the age of sixty-five years and for the balance of his life.

Whenever any fireman has been a member, and served honorably for a period of twenty-five years or more as an active member in any capacity, of any regularly organized volunteer fire department of any municipality in this state, and the annual retirement fee has been paid for a period of less than twenty-five years, the board of trustees shall order and direct that such fireman shall receive the *twenty-five dollar* minimum monthly pension herein provided increased by the sum of two dollars each month for each year the annual fee has been paid, but not to exceed the maximum monthly pension herein provided, upon such fireman attaining the age of sixty-five years and for the balance of his life.

No pension herein provided shall become payable before the sixty-fifth birthday of the fireman, nor for any service less than twenty five years. Provided have not That

twenty-five years: Provided, however, That:

- (1) Any fireman, upon completion of twenty-five years' service and attainment of age sixty, may irrevocably elect, in lieu of the pension to which he would be entitled hereunder at age sixty-five, to receive for the balance of his life a monthly pension equal to sixty percent of such pension.
- (2) Any fireman, upon completion of twenty-five years' service and attainment of age sixty-two, may irrevocably elect, in lieu of the pension to which he would be entitled hereunder at age sixty-five, to receive for the balance of his life a monthly pension equal to seventy-five percent of such pension. [1969 c 118 § 5; 1961 c 57 § 2; 1953 c 253 § 3; 1951 c 103 § 1; 1945 c 261 § 17; Rem. Supp. 1945 § 9578-31.]
- 41.24.175 Disability or retirement payments—Computation according to latest legislative expression. Payments to persons who are now receiving, or who may hereafter receive any disability or retirement payments under the provisions of chapter 41.24 shall be computed in accordance with the last act enacted by the legislature relative thereto: *Provided*, *however*, That nothing herein contained shall be construed as reducing the amount of any pension to which any fireman shall have been eligible to receive under the provisions of section 1, chapter 103, Laws of 1951. [1959 c 9 § 1.]
- 41.24.176 ——Construction. The provisions of this act are intended to be remedial and procedural and any benefits heretofore paid to recipients hereunder pursuant to any previous act are retroactively included and authorized as part of this act. [1950 c 9 § 2.]

Reviser's note: "this act" appears in chapter 9, Laws of 1959 codified as RCW 41.24.175 and 41.24.176.

- 41.24.180 Lump sum payments. The board of trustees of any municipal corporation shall direct payment in lump sum from said fund in the following cases:
- (1) To any volunteer fireman, upon attaining the age of sixty-five years, who, for any reason, is not qualified to receive the monthly retirement pension herein provided and who was enrolled in said fund and on whose behalf annual fees for retirement pension were paid, an amount equal to the amount paid by himself: Provided, however, That this provision shall not be construed as depriving any active fireman from completing the requisite number of years of active service after attaining the age of sixty-five years as may be necessary to entitle him to the pension as herein provided.
- (2) If any fireman dies before attaining the age at which a pension shall be payable to him under the provisions of this chap-

ter, there shall be paid to his widow, or if there be no widow to his child or children, or if there be no widow or child or children then to his heirs at law as may be determined by the board of trustees or to his estate if it be administered and there be no heirs as above determined, an amount equal to the amount paid into said fund by himself.

(3) If any fireman dies after beginning to receive the pension provided for in this chapter, and before receiving an amount equal to the amount paid by himself and the municipality or municipalities in whose department he shall have served, there shall be paid to his widow, or if there be no widow then to his child or children, or if there be no widow or child or children then to his heirs at law as may be determined by the board of trustees, or to his estate if it be administered and there be no heirs as above determined, an amount equal to the difference between the amount paid into said fund by himself and the municipality or municipalities in whose department he shall have served and the amount received by him as a pensioner.

(4) If any volunteer fireman retires from the fire service before attaining the age of sixty-five years, he may make application for the return of the amount paid into said fund by himself. [1961 c

57 § 3; 1945 c 261 § 18; Rem. Supp. 1945 § 9578-22.]

Conversion of death benefits to lump sum: RCW 41.24.160.

41.24.190 Proof of service. The filing of reports of enrollment shall be prima facie evidence of the service of the firemen therein listed for the year of such report as to service rendered subsquent to July 6, 1945. Proof of service of firemen prior to that date shall be by documentary evidence, or such other evidence reduced to writing and sworn to under oath, as shall be submitted to the *state* board and certified by it as sufficient. [1969 c 118 § 6; 1953 c 253 § 4; 1945 c 261 § 19; Rem. Supp. 1945 § 9578-33.]

41.24.200 Service need not be continuous nor in a single department. The aggregate term of service of any fireman need not be continuous nor need it be confined to a single fire department nor a single municipality in this state to entitle such fireman to a pension: *Provided*, That he has been duly enrolled in a fire department of a municipality which has elected to make provisions for the retirement of its firemen at the time he becomes eligible for such pension as in this chapter provided, and has paid all fees prescribed. To be eligible to the full pension a fireman must have an aggregate of twenty-five years service, have made twenty-five annual payments into the fund, and be at least sixty-five years of age at the time he commences drawing the pension provided for by this chapter, all of which twenty-five years service must have been in

the fire department of a municipality or municipalities which have elected to make provisions for the retirement of its volunteer firemen: *Provided*, *however*, That nothing herein contained shall require any fireman having twenty-five years active service to continue as a fireman, but such fireman if he retires by reason of such service prior to reaching the age of fifty-five years shall be required to pay the total annual retirement fee required of firemen and the municipality up to and including the year in which his fifty-fifth birthday shall occur to be eligible for a pension: *Provided further*, That the amount of monthly pension shall not be increased by any such payments after retirement from active service but the pension shall be computed as of the date of retirement from active service. [1961 c 57 § 4; 1953 c 253 § 5; 1945 c 261 § 20; Rem. Supp. 1945 § 9578-34.]

41.24.210 Report of accident-Time limitation for filing report and claim. No fireman shall receive any disability pension from the fund, or be entitled to receive any relief or compensation for sickness or injuries received in the performance of his duties, unless there is filed with the board of trustees a report of accident, which report shall be subscribed to by the claimant, the fire chief, and the authorized attending physician, if there is one. No claim for benefits arising from sickness or injuries incurred in consequence or as a result of the performance of duties shall be allowed by the state board unless there has been filed with it a report of accident within ninety days after its occurrence and a claim based thereon within one year after the occurrence of the accident on which such claim is based. The board may require such other or further evidence as it deems advisable before ordering any relief, compensation, or pension. [1969 c 118 § 7; 1957 c 159 § 3; 1945 c 261 § 21; Rem. Supp. 1945 § 9578-35.]

41.24.220 Hospitalization, surgery, etc. Whenever any fireman becomes disabled or sick in the performance of his duties by reason of which he is confined to any hospital an amount not exceeding the daily ward rate of the hospital shall be allowed and paid from said fund toward such hospital expenses for a period not exceeding twenty-six weeks: *Provided*, That this allowance shall not be in lieu of but in addition to any other allowance in this chapter provided: *Provided further*, That costs of surgery, medicine, laboratory fees, x-ray, special therapies, and similar additional costs shall be paid in addition thereto. [1965 c 86 § 3; 1961 c 57 § 5; 1957 c 159 § 4; 1953 c 253 § 7; 1951 c 103 § 3; 1949 c 145 § 2; 1945 c 261 § 22; Rem. Supp. 1949 § 9578-36. Prior: 1935 c 121 § 5; RRS § 9578-5.]

41.24.230 Funeral and burial expenses. Upon the death of any fireman resulting from injuries or sickness in consequence or as the

result of the performance of his duties, the board of trustees shall authorize the issuance of a voucher for the sum of five hundred dollars, and upon the death of any fireman who is receiving any disability pension provided for in this chapter, the board of trustees shall authorize the issuance of a voucher for the sum of two hundred fifty dollars, to help defray the funeral expenses and burial of such fireman, which voucher shall be paid in the manner provided for payment of other charges against the fund. [1961 c 57 § 6; 1957 c 159 § 5; 1951 c 103 § 4; 1945 c 261 § 23; Rem. Supp. 1945 § 9578-37. Prior: 1935 c 121 § 7; RRS § 9578-7.]

41.24.240 Benefits not transferable or subject to legal process—Chapter not exclusive. The right of any person to any future payment under the provisions of this chapter shall not be transferable or assignable at law or in equity, and none of the moneys paid or payable or the rights existing under this chapter, shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law. Nothing in this chapter shall be construed to deprive any fireman, eligible to receive a pension hereunder, from receiving a pension under any other act to which he may become eligible by reason of services other than or in addition to his services as a fireman under this chapter. [1957 c 159 § 6; 1945 c 261 § 24; Rem. Supp 1945 § 9578-38.]

41.24.250 State board for volunteer firemen—Composition—Terms—Vacancies—Oath. There is established a state board for volunteer firemen to consist of three members of a fire department covered by this chapter, no two of whom shall be from the same congressional district, to be appointed by the governor to serve overlapping terms of six years. Of members first appointed, one shall be appointed for a term of six years, one for four years, and one for two years. Upon the expiration of a term, a successor shall be appointed by the governor for a term of six years. Any vacancy shall be filled by the governor for the unexpired term. Each member of the state board, before entering on the performance of his duties, shall take an oath that he will not knowingly violate or willingly permit the violation of any provision of law applicable to this chapter, which oath shall be filed with the secretary of state. [1955 c 263 § 2.]

41.24.260 — Meetings—Quorum. The state board shall hold regular semiannual meetings in April and October of each year, and special meetings not more than once monthly at such times and places as may be called by the chairman or by two of its members. No action shall be taken by the state board without approval of two members. [1955 c 263 § 3.]

- 41.24.270 ——Compensation—Expenses. Each member of the state board shall receive twenty-five dollars per day for each day actually spent in attending meetings of the state board. Each member shall also receive his actual and necessary traveling and other expenses, including going to and from meetings of the state board or other authorized business of the state board, at the same rate as other state officers and employees, but not to exceed the per diem allowance provided by law. [1969 c 118 § 8; 1955 c 263 § 4.]
- 41.24.280 ——Attorney general is legal advisor. The attorney general shall be the legal advisor for the board. [1955 c 263 § 5.]
 - 41.24.290 ——Powers and duties. The state board shall:
- (1) Generally supervise and control the administration of this chapter;
- (2) Promulgate, amend, or repeal rules and regulations not inconsistent with this chapter for the purpose of effecting a uniform and efficient manner of carrying out the provisions of this chapter and the purposes to be accomplished thereby, and for the government of boards of trustees of the municipalities of this state in the discharge of their functions under this chapter;
- (3) Review any action, and hear and determine any appeal which may be taken from the decision of the board of trustees of any municipality made pursuant to this chapter;
- (4) Take such action as may be necessary to secure compliance of the municipalities governed by this chapter and to provide for the collection of all fees and penalties which are, or may be, due and delinquent from any such muncipality;
- (5) Review the action of the board of trustees of any municipality authorizing any pension as provided by this chapter; and authorize the regular issuance of monthly warrants in payment thereof without further action of the board of trustees of such municipality;
- (6) Require periodic reports from the recipient of any benefits under this chapter for the purpose of determining their continued eligibility therefor;
- (7) Maintain such records as may be necessary and proper for the proper maintenance and operation of the volunteer firemen's relief and pension fund and provide all necessary forms to enable local boards of trustees to effectively carry out their duties as provided by this chapter;
- (8) Compel the taking of testimony from witness under oath before the state board, or any member or the secretary thereof, or before the local board of trustees or any member thereof, for the purpose of obtaining evidence, at any time, in connection with any

claim or pension pending or authorized for payment. For such purpose the state board shall have the same power of subpoena as prescribed in RCW 51.52.100. Failure of any claimant to appear and give any testimony as herein provided shall suspend any rights or eligibility to receive payments for the period of such failure to appear and testify;

- (9) Appoint a secretary to hold office at the pleasure of the state board, fix his compensation at such sum as it shall deem appropriate, and prescribe his duties not otherwise provided by this chapter. [1955 c 263 § 6.]
- 41.24.300 ——Vouchers, warrants. All expenses incurred by the state board shall be accomplished by vouchers signed by two members of the state board and issued to the persons entitled thereto and sent to the *proper state agency*. The *proper state agency* shall issue a warrant on the fund for the amount specified. [1969 c 118 § 9; 1955 c 263 § 7.]
- 41.24.310 ——Secretary, duties, bond, compensation. The secretary shall maintain an office at Olympia at a place to be provided, wherein he shall
- (1) keep a record of all proceedings of the state board, which shall be public,
- (2) maintain a record of all members of the pension fund, including such pertinent information relative thereto as may be required by law or regulation of the state board,
- (3) receive and promptly remit to the state treasurer all moneys received for the volunteer firemen's relief and pension fund,
- (4) transmit periodically to the *proper* state *agency* for payment all claims payable from the volunteer firemen's relief and pension fund, stating the amount and purpose of such payment,
- (5) certify monthly for payment a list of all persons approved for pensions and the amount to which each is entitled,
- (6) perform such other and further duties as shall be prescribed by the state board.

The secretary shall receive such compensation as shall be fixed by the state board, together with his necessary traveling and other expenses in carrying out his duties authorized by the state board. [1969 c 118 § 10; 1955 c 263 § 8.]

INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, Columbus, Ohio, January 20, 1972.

Hon. JOHN L. McCLELLAN, U.S. Senate, Washington, D.C.

DEAR SIR: Comments on the several programs for "public safety officer" currently pending before the Subcommittee on Criminal Laws are enclosed.

If we can provide any further information or assistance, we shall be glad to cooperate.

Respectfully,

JOHN B. HIGGINS. President.

1. What programs are presently available within your jurisdiction in the way of death and dismemberment programs for "public safety officers" as defined by

Local 67, International Association of Firefighters, set up an insurance program—\$10,000 life plus double indemnity. This is \$7500 term insurance to age 70 plus \$2500 permanent insurance.

The International Association of Firefighters has a dismemberment program

with which Local 67 is not involved.

The City of Columbus furnishes \$2,000 life insurance for all city employees. This insurance terminates on separation.

2. What costs must be met by those individuals as well as units of government covered by these programs?

\$5.95 per month being paid by individuals. No government subsidy.

3. How do these insurance costs compare to those incurred by employees other than public safety officers in government and private employment in occupations at the same income levels?

Most insurance companies do not rate police or fire in the State of Ohio.

At one time they surcharged fire and police.

4. Should the programs offered by titles I and III of S. 2994 supplement or

supplant programs currently available to you? Why?

Our monthly rate of \$5.95 is very reasonable and we have over 80% participation. After separation or release from employment, insured can still pay his premiums and have \$2500 permanent insurance after age 70. Therefore, the Titles II and III programs should supplement our present program.

S. 33 states insurance shall cease 30 days after separation or release from

full-time duty.

5. Which would you prefer, the two-stage or federal program envisioned by Title II of S. 2994 or a direct federal program or federal subsidy of an existing State or local program as suggested by S. 33 and S. 1946?

A direct Federal program should be cheaper for the insured as compared to a State program. S. 2994 states "the Administration shall bear not to exceed $\frac{1}{4}$ of costs"; S. 1946, "the U.S. shall bear not to exceed $\frac{1}{6}$ of the cost".

6. Do you see any long-term danger to the independence of local police forces from the establishment of direct Federal salary-type supplements? Why?

Not being familiar with police procedures, we cannot comment on question. 7. Should Congress decide it would be appropriate to enact either Title II (or the alternatives of S. 33 or S. 1946) or Title III, but not both, which would you prefer to see enacted? Why?

TITLE II

In Title III there are very few categories which would apply to the Fire Department: (2) Arson; (13) Riot; (15) Unlawful use of explosives. It seems as though this act was written mainly for police officers.

8. Should all of those currently covered by the term "Public Safety Officer" be included in the same program? Or would it be advisable to set up separate programs for each separate category of "Public Safety Officer?"

One program should suffice.

RESPONSES

S. 1946 should be clarified. Page 2, line 5 states full or part-time firefighter is known as "law enforcement or firefighting officer".

Page 3, line 23, states will insure any law enforcement or firefighting officer

employed on a full-time basis by a State or local government.

Title II also states under Definitions Sec. 500 (D) "firefighting done voluntarily or otherwise, with or without compensation". Then Sec. 501 (a) states "persons insured". Line 4 states "any public safety officer employed on a full-time basis by a State or local government". We suggest that this include "volunteer or otherwise with or without compensation".

Title III under Sec. 526 (A) states "a public safety officer employed on a full or part-time basis has been killed or disabled as the result of a criminal act in the line of duty". This should be changed to "killed or disabled in the line of duty".

CINCINNATI FIRE FIGHTERS ASSOCIATION, Cincinnati, Ohio.

Senator John L. McClellan, Committee on the Judiciary, Washington, D.C.

SIR: Let me begin by apologizing for not answering your inquiry earlier and thanking you for looking after the welfare of the Safety Officers of this country. I will try and provide all answers you have requested.

1. The only coverage given our members now is a \$1,000 insurance policy carried by our city on each employee. We are also covered by State Workmen's

Compensation.

2. As for the \$1,000 insurance this was a salary negotiated item years ago we pay nothing the employer pays entire cost, as for the Work Comp this is

mandatory in this state.

3. Previous it was more expensive for a Firefighter to carry life insurance, but about five years ago we were removed from the high risk group, however men who had life insurance at that time find they are still paying a higher premium.

4. As you can see the coverage now given us is not adequate, I therefore feel they should supplement the present programs to provide us with additional

overage

5. I would like to see a Federal subsidy of a local or state plan. I feel this would bring the insurance closer to home and those belonging would be able to

get better service.

6. Yes I feel this would lead to the federaliziation of safety officers and take the responsibility of the local governments away. I feel that as being a city they have an obligation to the people of that subdivision to levy taxes and provide

the proper safety force.

7. I would prefer to Title 11 enacted this would eliminate the dispute as to whether or not a man was killed due to a criminal act. As you know someone will always try to read something into the law and some widow may not receive a proper settlement due to someone reading into the law something that was not intended to exclude her husband.

8. I feel that it should be left to read Safety Officers, even though we may be different there are many times we perform the same jobs, such as when our men work on Arson Cases or when Police perform a job which is usually performed

by a firefighter such as operating an ambulance.

I feel that the faster a program such as you have proposed can be enacted it would be most beneficial. Our young men come into the department with the thing fartherest from their mind as providing insurance for their family in case of death. Here is a man in the prime of his life and strong as a horse he thinks nothing can hurt him, before he knows it he is out responding to a fire or false alarm and someone takes a shot at him and kills him, in the next few minutes his wife becomes a widow and his children orphans in the case of our city the little money she would receive would force her to go on welfare to survive.

Recently this was brought close to reality, 2 members sitting in a fire station, when some unknown person fire through the door wounding both the bullets which struck these men if they would have been in different positions would have killed both. After the men returned to duty I talked with both, they informed

me the thing they thought of most while recuperating what would have happened to their families if they had been killed. They both carried life insurance but due to their limited incomes this was far from being sufficient to provide even a meager existence for their families.

Hoping you are successful in your endeavor,

LARRY SCHMOLT, Secretary-Treasurer, Local 476.

CITY FIRE FIGHTERS' UNION, AFFILIATED WITH I.A. OF F.F., U.P.F.F. OF WIS., WIS. STATE AFL-CIO AND M.F. OF L. LOCAL NO. 311. Madison, Wis., January 18, 1972.

Senator John L. McClellan,

Chairman, Subcommittee on Criminal Laws and Procedures, U.S. Senate.

Dear Sir: Enclosed please find answers to memorandum of Bill S. 2994, it is the hope of this Union that they will be of some help to you and your Com-

We would also like to take this opportunity to both commend and express our deepest appreciation for what you and your Committee are attempting to do in

regards to crime in this Country and especially for Bill S. 2994.

It is comforting to know that Senators such as yourself and your Committee and also Senators Humphrey and Kennedy; realize that the protection of life and property in this Country is without a doubt the most essential function of any governmental body and that it will only function properly as long as the people doing the protecting are adequately compensated and protected themselves. Again we thank both you and your Committee.

Sincerely.

CHARLES R. MERKLE, President, Firefighters Local 311, Madison, Wis.

ANSWERS TO QUESTIONS ON BILL S. 2994

Question No. 1—The City of Madison, Wisconsin provides for a life and disability insurance benefit for all commissioned members of the Police and Fire Departments in case of a duty incurred death or disabiltiy, equal to two years pay in addition to workmans compensation.

Question No. 2—There is no cost to the members of the Police and Fire Departments, the City pays the full cost of the premiums. The cost to the City is approx. \$15,000.00 annually based on \$2.40 per \$1000.00 of payroll annually.

Question No. 3—The City of Madison chose not to insure certain members of the Fire Department because the premiums would have been substantially higher for these individuals due to past problems of health, both heart and lung, although they have got a clean bill of health from their doctors. The City will use their self-insured ability to compensate these particular members.

Question No. 4—Yes very definitely, because if for no other reason, as you probably already know Cities are in a crisis all over the Country as far as taxa-

tion to provide the necessary services such as police and fire protection.

Question No. 5—Title 11 S. 2994 because we have a similar program and would like to see the city reimbursed at least partially.

Question No. 6—No, and we certainly hope not!! Question No. 7—S. 33 because of page 19 Sec. 17 lines 7 thru 12. Question No. 8—Yes, mainly because both services have the same objective and that being protection of life and property.

> COLUMBUS, OHIO, DIVISION OF FIRE, Columbus, Ohio, January 19, 1972.

Hon. JOHN L. McCLELLAN, U.S. Senate, Washington, D.C.

DEAR SIR: Comments on the several programs for "public safety officers" currently pending before the Subcommittee on Criminal Laws are enclosed.

If we can provide any further information or assistance, we shall be glad to cooperate.

Respectfully,

RAYMOND R. FADLEY, Fire Chief.

1. What programs are presently available within your jurisdiction in the way of death and dismemberment programs for "Public Safety Officers" as defined by S. 2994?

Local 67, International Association of Firefighters, set up an insurance program—\$10,000, life plus double indemnity. This is \$7500, term insurance to age 70 plus \$2500, permanent insurance.

The International Association of Firefighters has a dismemberment program

with which Local 67 is not involved.

The City of Columbus furnishes \$2,000. life insurance for all city employees. This insurance terminates on separation.

2. What costs must be met by those individuals as well as units of Govern-

ment covered by these program?

\$5.95 per month being paid by individuals. No government subsidy.

3. How do these insurance costs compare to those incurred by employees other than public safety officers in Government and private employment in occupations at the same income levels?

Most insurance companies do not rate police or fire in the State of Ohio. At one

time they surcharged fire and police.

4. Should the programs offered by Titles II and III of S. 2994 supplement or

supplant programs currently available to you? Why?

Our monthly rate of \$5.95 is very reasonable and we have over 80% participation. After separation or release from employment, insured can still pay his premiums and have \$2500. permanent insurance after age 70. Therefore, the Titles II and III programs should supplement our present program.

S. 33 states insurance shall cease 31 days after separation or release from

full-time duty.

5. Which would you prefer, the two-stage or Federal program envisioned by Title II of S. 2994 or a direct Federal program or Federal subsidy of an existing State or local program as suggested by S. 33 and S. 1946?

A direct Federal program should be cheaper for the insured as compared to a State program. S. 2994 states "the Administration shall bear not to exceed

4 of costs." S 1946, "the U.S. shall bear not to exceed \(\frac{1}{3} \) of the cost".

6. Do you see any long-term danger to the independence of local police forces from the establishment of direct Federal salarytype supplements? Why?

Not being familiar with police procedures, we cannot comment on question.

7. Should Congress decide it would be appropriate to enact either Title II (or the alternatives of S. 33 or S. 1946) or Title III, but not both, which would you prefer to see enacted? Why?

TITLE II

In Title III there are very few categories which would apply to the Fire Department: (2) Arson; (13) Riot; (15) Unlawful use of explosives. It seems as though this act was written mainly for police officers.

8. Should all of those currently covered by the term "Public Safety Officer" be included in the same program? Or would it be advisable to set up separate programs for each separate category of "Public Safety Officer?"

One program should suffice.

RESPONSES

S. 1946 should be clarified. Page 2, line 5 states full or part-time firefighter is known as "law enforcement or firefighting officer."

Page 3, line 23, states will insure any law enforcement or firefighting officer

employed on a full-time basis by a State or local government.

Title II also states under Definitions Sec. 500 (D) "firefighting done voluntarily or otherwise, with or without compensation". Then Sec. 501 (a) states "Persons insured". Line 4 states "any public safety officer employed on a full-time basis by a State or local government". We suggest that this include "volunteer or otherwise with or without compensation".

Title III under Sec. 526 (A) states "a public safety officer employed on a full or part-time basis has been killed or disabled as the result of a criminal act in the line of duty". This should be changed to "killed or disabled in the line of

duty."

EUGENE FIRE DEPARTMENT, Eugene, Oreg., January 20, 1972.

Hon. John L. McClellan, U.S. Senate, Committee on the Judiciary, Washington, D.C.

Dear Senator McClellan: May I express the sincere appreciation for the members of Eugene Local 851 I.A.F.F. for your inquiry on proposed legislation pending before your sub-committee. Eugene, Oregon is the second largest city in our state (80,000) and has a Fire Dept. of 143 members including the office personnel. We wish you would convey to your committee and staff members how deeply we all appreciate the work and energy that you are exercising on behalf of this type of legislation and our concern at not being capable of more assistance to you on this very needed federal government involvement. We most certainly hope that you have every success in this venture. If we can be of assistance to you on this or any other question, please let us know.

Again, thank you for this opportunity.

Sincerely,

Capt. FRED N. O'SULLIVAN.

The following information as per requested in memorandum Public Safety Officers and S. 2994, The Victim of Crime Act of 1972.

QUESTION 1

- 1. Aetna—Equal to one year's salary in \$1,000. and term and paid up—joint cost.
 - 2. SAIF—Oregon Compensation Dept. (City).

3. Social Security—joint cost.

4. OPERS—joint cost. Following % paid by Employees and Employer. Total Disability 40% of salary. Firefighters pay 5.7 % of salary. City pays Approx. 4.5% of payroll. Death benefit one-half of year's salary. Total cost to employee and employer approx. 10.2%.

QUESTION 2

1. 50%—private policy. 2. None. 3. 5% of group. None.

QUESTION 3

1. Comparable. 2. Higher for Firefighters.

QUESTION 4

Supplement. Why. Present available coverage to minimal estate.

QUESTION 3

Direct Federal Program. Why. State and City are not providing adequately.

QUESTION 6

No. A. Firefighters face extreme hazards and impacts of conflagration are of national concern—Funding.

QUESTION 7

S. 1946. A. It has conversion.

QUESTION 8

All one as far as federal assistance.

Portland Fire Fighters' Association, Portland, Oreg., January 18, 1972.

Hon. John L. McClellan, U.S. Senate, Washington, D.C.

DEAR SENATOR: Our membership is most appreciative of your concern for needed national legislation affording insurance protection to fire fighters.

Using the illustrative questions from your memormandum as guidelines the following are answers to these questions applicable to Portland, Oregon, firefighters.

1. \$10,000.00 group life term insurance available through Portland Firefighters' Association, Local #43, I.A.F.F. AFL-CIO. \$3,000.00 coverage through the employer, the City of Portland.

2. \$10,000.00 policy is voluntarily subscribed to and wholly paid for by the

individual. \$3,000.00 policy is paid for by the employer.

3. It is only fair to say the rates compare favorably with the main determining factor being the average age of the group.

4. The programs offered by Titles II and III of S. 2994 should supplement the present available programs because the present coverage is not adequate.

5. It would appear that one federal program would be preferable, operating uniformly throughout the fifty states without many separate bureaucracies.

6. I do not recognize nationalization of "public safety officers" as a great danger. There is more benefit than danger through uniformity and coordination especially

in law enforcement.
7. If a choice must be made Title II would be preferable. However this preference does not diminish the necessity of coverage afforded in Title III. Over a long period of time Title II coverage would give better protection to a broader group who are facing routine hazards in firefighting.

8. One program covering "public safety officers" is the considered opinion of

Portland Fire Fighters' Association.

Very respectfully yours,

DONALD B. YORK, Secretary, Local No. 43.

CITY OF SYRACUSE, N.Y., January 20, 1972.

Hon. John L. McClellan, U.S. Senate, Washington, D.C.

DEAR SIR: While I am in favor of increased insurance protection for firefighters, I cannot fully support any of the five bills pending in your committee. I have outlined a few changes which, in my opinion, would enhance the overall effect of these bills.

Senate bills S. 33, S. 1946 and Title II of S. 2994 all provide for some type of insurance coverage for public safety officers. Since the rationale behind these programs is to provide the best possible coverage at the lowest cost, S. 33 (if it included firefighters) and S. 1946 would seem superior to S. 2994 in that they give each local unit the option of continuing their existing policies or opting for the

Federal Program.

All Syracuse Firefighters currently receive a \$15,000 group life policy. However, there are no provisions for Accidental Death and Dismemberment benefits. The additional cost for inclusion of this A.D. & D. benefit is approximately 60% higher than the standard rate for less hazardous occupations. This is the main reason we have only the straight \$15,000 death benefit. The fact that the Federal programs include the A.D. & D. benefit enhances its acceptability to this particular Department. However, the proposed schedule of insurance in all three bills would result in a lower benefit for Syracuse Firefighters. In this instance S. 1946 seems superior because we would have the option of choosing the policy or continuing our existing one.

In view of the fact that the current death benefit is \$15,000 for all firefighters, these bills would have to supplement current coverage or a new schedule of benefits would have to be designed. In the latter case, perhaps a schedule of one and one half $(1\frac{1}{2})$ times annual pay—not to exceed \$40,000 (or \$35,000) with a mini-

mum of \$15,000.

Title III of S. 2994 is novel in that it provides the \$50,000 benefit. I would assume that the rationale behind this program is to alleviate the financial hardship caused by a safety-officer's untimely death. The proposed wording of Title III seems to discriminate against firefighters. While majority of police line of duty deaths are the result of violent crimes, this is not the case with firemen. This program is designed to alleviate the financial hardship caused by public safety officers' deaths in the line of duty. The survivors of firefighter killed in the line of duty still have the same financial problems whether he is killed by a sniper's bullet or the toxic gases inhaled at a fire. Under this bill the crime would have to be proved before payment was actually made. In the case of arson, it is usually difficult to get enough evidence to prove the crime has been committed.

In conclusion, I must say we favor the \$50,000 benefit of S. 2994 if it can be amended to include all line of duty deaths of firemen. In the event that this

cannot be done, I would favor S. 1946 if it supplemented existing coverage or if a higher benefit schedule was devised.

I hope these suggestions will help your committee decide the best course to follow.

Sincerely,

THOMAS F. HANLON, Chief of Fire.

CITY OF MEMPHIS, Memphis, Tenn., January 19, 1972.

Senator John L. McClellan.

U.S. Senate, Committee on the Judiciary, Subcommittee on Criminal Laws and Procedures, Washington, D.C.

DEAR SENATOR McClellan: This is in reply to your letter of December 21, 1971, with the enclosed copies of Bills S-1946 and S-2994 relating to compensation for public safety officers that are killed or disabled while in the line of duty.

It is my belief that this program should be financed in its entirety by Federal,

State or local government, either collectively or individually.

My reasons for this are due to the increased hazards faced by fire departments. The fire service is now rated the #1 most hazardous profession replacing the mining industry. Also new products and materials are being developed daily that increase the risk.

During the period of major civil disorders, the fire service has suffered more injuries and deaths by firearms, rocks, bottles and injuries suffered in fires resulting from arson than any other branch of public service. The increasing severity of these injuries is alarming. The fire service is always in the midst of these areas and on most occasions without adequate protection.

There is a trend for a public outcry for law and order with all the funds for assistance being channeled to the law enforcement agencies through the LEEA Program, while the fire service has been unable to secure Federal Funds for needed additional manpower and motorized and protective equipment, as well as funds for college courses and other training in various technical courses to cover the many new toxic and hazardous materials on the market today.

In addition, the Fire Prevention Bureau of the Fire Department investigates all fires and apprehends and prosecutes those responsible for arson. It is my belief that the Fire Department should certainly be entitled to law enforcement

funds in this regard.

Although this is not directly connected with the above bills, I, along with the entire fire service, would greatly appreciate it if, through the efforts of Congress, assistance could be given to the fire service along the lines of the LEEA Program for law enforcement agencies.

Thank you for the opportunity to examine the above bills and I trust that my remarks may be of some benefit. If in the meantime the Memphis Fire Department or I can be of any further service or assistance to you, please contact us.

Very sincerely yours.

EDWARD A. HAMILTON,
Director and Chief, Memphis Fire Department.

Dallas Fire Department, Dallas, Tex., January 20, 1972.

Hon. John L. McClellan, U.S. Senate, Washington, D.C.

DEAR SENATOR: It is a pleasure to respond to your letter of December 21, 1971, requesting our comments on pending legislation to benefit "public safety officers". In answer to illustrative questions one and two, we submit the following:

The City of Dallas pays 40% of the premium on a \$5,000 life insurance policy for firefighters. This is mandatory for firefighters upon employment.

The City of Dallas pays 82.5% of the premium on a \$7,500 accident policy for probationary firemen (less than one year service).

The City of Dallas pays the premiums on a hospitalization policy for firemen. This does not include dependents.

The City of Dallas will pay twice the annual salary to beneficiaries of all employees killed in the line of duty.

Our department has a mutual burial policy of \$2,400 for firemen, and \$1,500 for wives. Membership is optional and all premiums are paid for by members.

The I.A.F.F., Local 617, provides its members (optional) with a \$20,000 life

insurance policy with A.D. & D. Premiums are paid by members.

Our pension fund, which provides for death or disability, is funded by a 15% contribution by the city based on the total fire and police payroll, and 61/2%

contribution by members.

The State of Texas, thru enactment of a state statute, provides a \$10,000 cash benefit to the widow of public service officers killed in the line of duty. In addition, there are minor children benefits up to \$200 per month for three or more children. Another statute provides for free tuition in state supported colleges for surviving children of public safety officers killed in the line of duty.

Our response to question number three (3) is: Other commercial plans are

available to firemen without penalty because of occupation.

In response to question number four (4), we feel that programs offered by Title II and III should be a supplement to our present programs rather than

supplant them.

In response to question number five (5), our opinion is that a Federal-State program is more appropriate in our case. The states should be more aware of the needs of the people in their part of the nation, and could construct programs accordingly rather than direct Federal programs applying to all public safety officers in all states.

Responding to question number six (6), we anticipate no dependence of the

fire service to the Federal Government due to Federal grants or subsidies.

In response to question number seven (7), we believe Title II is preferable because it would be beneficial to more public safety officers than Title III.

Our answer to question number eight (8) is one program for all public safety officers. In our opinion the needs of all three categories of public safety officers are approximately the same.

If we can be of service to you, do not hesitate to contact us.

Sincerely,

M. C. HENDRIX, Chief.

CARSON CITY FIRE DEPARTMENT, Carson City, Nev., January 18, 1972.

Senator John L. McClellan,

Committee on the Judiciary, Subcommittee on Criminal Laws and Procedures, Washington, D.C.

Dear Senator McClellan: I appreciate the opportunity to assist you in your evaluation of S. 2994.

I trust the following answers to your illustrative questions will suffice.

(1) Programs available in Carson City are a fully paid death benefit insurance for firemen and policemen.

(2) The City of Carson City pays the full premium on this insurance program

for death in the line of duty.

(3) Individual firemen have had difficulty in the past obtaining fully covered insurance due to the occupational hazards involved. As we have a group protection plan, I do not have information concerning individual private insurance.

(4) I feel the programs offered by Titles II and III should supplement the programs available. I feel this is necessary due to the fact that many areas do not have programs available to public safety officers. The areas that do have programs are usually inadequate.

(5) Although question 4 basically answers question 5, I feel that a Federal subsidy of existing state and local programs would be advantageous and possibly

better able to assist smaller communities.

(6) N/A.
(7) I feel Title III will be of greater benefit to all public safety officers as

many of their annual salaries are very low.

(8) The term "public safety officer" is broad and should be defined in my estimation as police officers, firemen, and correctional guards, only. I feel that policemen and firemen basically work under the same hazards and therefore those programs should be set up in conjunction with one another.

I have written to the Nevada Delegation of Congress asking for their support on this bill. I feel especially in the case of firefighters in the United States, the Federal Government must give support in our efforts to save lives and property.

If I may be of any further assistance, please do not hesitate to call on me.

Sincerely,

LESTER GROTH, Chief.

GRAND RAPIDS, MICH., January 17, 1972.

Senator John L. McClellan, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR SIR: In reply to your questionnaire dated December 21, I will try to answer the questions to the best of my ability.

1. At the present time in our city, a man is covered by Workmen's Compensation up to at least \$10,000; and if the compensation does not equal \$10,000, the city is self-insured to bring the base up to \$10,000.

2. The city stands the entire cost, as this is a negotiated benefit received

by the unions.

3. All city employees are covered by this type of insurance. I understand there are some insurance companies that will not write policies on certain grades of firemen.

4. As our program is a labor negotiated contract, I feel the program offered

by Titles II and III of S. 2994 should supplement the above program.

5. I would prefer the two-stage State or Federal program envisioned by Title

II of S. 2994, as State and local governments have no such program.

6. I see only a minute amount of danger to the independence of local police or fire forces from the establishment of direct Federal salary-type supplements, depending on how the program is administered.

7. I would prefer Title III because of full payment by the government, but would also like to have an option clause permitting the individual to choose II because of the continued benefits after retirement to which he could pay the amount of premium.

8. I think parity should be maintained, and all safety officers be considered

the same, although hazards may vary for each class of safety officer.

Respectfully submitted.

ROBERT J. VEIT, Fire Chief.

Western Fire Chiefs Association, Inc., San Leandro, Calif., January 25, 1972.

To: U.S. Senators John L. McClellan, of Arkansas, and Edward M. Kennedy, of Massachusetts

Subject: S. 33; S. 1946; S. 2994; S. 2995; and titles II and III of S. 2994.

HONORABLE SIRS: Your inquiries on the above bills are similar in nature and therefore, I take this opportunity to respond to you jointly, in behalf of the members of the Fire Service of the Western Association.

The Committee on the Judiciary, in general, and the Subcommittee on Criminal Laws and Procedures, in particular, realize I am sure that the Fireman's occupation is by its very nature "the most dangerous in the world today".

Therefore, we are grateful that when you consider benefits for public safety officers, firemen are also included. It is my opinion that there are many good provisions in the above named bills and titles.

Collectively they should reflect the following:

Whatever program is adopted should provide for a continuing program of long duration.

It should provide for optional participation by the individuals or unit of local government, thereby protecting Home Rule.

Should be available as a supplement to existing programs. In some areas this may be the only one as some now have little or no protection.

Premiums should be based on annual pay, with \$10,000 minimum benefits to accommodate volunteer programs. These premiums could be shared $\frac{1}{3}$ by Federal, $\frac{1}{3}$ by State and $\frac{1}{3}$ by individual or unit of local government. In case a State is the unit of local government it could be on a 50/50 basis.

Benefits should be paid for any job-incurred injury or death, not just victims of crimes as listed. Death has such lingering effects for the dependents.

The enactment would materially benefit our recruitment program in the ten western states, as Safety Officers usually pay higher or "rated" premiums for insurance.

The final bill should contain a conversion factor for member retirees.

California Safety members are normally covered by State Compensation Insurance for Industrial (job-incurred) accident or death, paid for by the employer. Recent State Legislation provides for this coverage "off duty" as well as "on duty" if performing rescue, life saving, or firefighting service, anuwhere.

The costs of most retirement programs in California are shared equally

by employee and employer.

The Public Safety Officers of this nation deserve all of the benefits you and the members of your fine committee have proposed.

We wish you great speed and God's Blessing in your deliberations.

Sincerely,

FLOYD D. HIGGINS, President.

CITY OF ATLANTA, DEPARTMENT OF FIRE, Atlanta, Ga., January 24, 1972.

Hon. John L. McClellan, U.S. Senate, Washington, D.C.

Dear Senator McClellan: I have carefully studied Senate Bills 2994 and 2995, both of which are alternate versions of the Victims of Crime Act of 1972. The proposal introduced known as S. 33, expanded to include all public safety officers (including firemen) and which is the basis for Title II of S. 2995, is much more attractive to firemen.

Presently, the amount of insurance coverage available to Atlanta firemen is based on salaries and is limited to a maximum of \$32,000. The maximum amount which can be carried into retirement is \$10,000. Insurance coverage for active personnel is limited as follows:

Amount of Annual salary: 6,001 through 8,000______14,000 8,001 through 10,000______ 16,000 10,001 through 12,000______ 20,000 12,001 through 14,000______ 24,000 14,001 through 16,000_____ 28,000 16,001 and over _____ 32,000

The above insurance costs 97¢ per month per \$1,000 of which the fire employee

pays 70¢ per \$1,000 and the City pays the remainder.

Comparable insurance is provided police officers at a cost of 98¢ per month per \$1,000 payable to the Insurance Company. Of this amount, the employee pays 70¢ per \$1,000 and the remainder is paid by the City. You will note, that the premium for police personnel is 1¢ higher than that for fire personnel by

reason of helicopters in use in that department.

The monthly premium for insurance for general employees is \$1.25 per month per \$1,000. Of this, the employee contributes 70¢ per month per \$1,000 and the City pays the remainder. When questioned about the higher rates for general employees, we were advised by the insurance division of the City of Atlanta that the average age of general employees is greater than that of police and fire personnel.

The actual cost of insurance through the City of Atlanta fluctuates and is determined by the average age of participants and the total volume of insurance in force. This indicates that there is a rebate to the City from the insurance company but this varies to such a degree determined by the above, that it is impossible to acquire actual amounts. No rebates, however, are made to the employee.

Past experience indicates that the employee will acquire all the insurance made available to him. Present minimum salaries prohibits acquiring adequate insurance coverage on an individual basis, but I feel confident that fire personnel would wholeheartedly endorse and participate in a nationwide, federally supported program of life, accidental death, and dismemberment insurance for all public safety officers.

Yours very truly,

FIRE DEPARTMENT, CITY OF NEW YORK, New York, N.Y., January 28, 1972.

Hon. John L. McClellan, U.S. Senate, Washington, D.C.

Dear Senator McClellan: I appreciate the opportunity to review the documents relating to benefit programs for public safety Officers. A federally supported life, accidental death and dismemberment insurance program is urgently needed to provide protection for firefighters and their families, because of the inherent dangers of firefighting.

The comments below are in response to the questions forwarded with your

letter of December 21, 1971.

1. There are no insurance programs within our jurisdiction in the way of accidental death and dismemberment. However, New York City does have pension benefits for disability retirement for firefighters and for dependents in event of line-of-duty death of a firefighter.

2. As there are no insurance programs carried by New York City for accidental death or dismemberment, individual policies must be obtained. For this type

insurance all costs must be borne by the individual.

3. Insurance costs for firefighters, for death and dismemberment insurance generally incur additional premiums over other types of employment. In addition,

some carriers are reluctant to underwrite this type coverage.

4 and 5. Our review of the proposed bills indicates the proposals in S. 33 should be used to supplement insurance coverage. The direct federal program as suggested in S. 33 is preferable. New York City is treated as a separate entity in such matters by New York State. It would be most difficult to introduce a state managed program for a single city.

6. This program would pose no danger to the independence of fire-fighting forces. Local control of the fire service has a long tradition in the United States. In addition there are statutes, tax revenues and funding of the fire service which

would require local control.

7. Alternative S. 33 is preferable. The provision of accidental death coverage is urgently needed to supplement the marginal insurance coverage maintained

by most personnel in the fire service.

8. All types of employment covered by the term "public safety officers" should be under one program. It is felt a separation into various occupations is not needed nor advisable.

I trust the replies to your questions will be of assistance. Your interest in the fire service, and consideration for the security of firefighters and their families appreciated.

Sincerely yours,

JOHN T. O'HAGAN, Chief of Department.

International Association of Firefighters, Washington, D.C., February 9, 1972.

Hon. John L. McClellan,

U.S. Senate, New Senate Office Building, Washington, D.C.

Dear Senator McClellan: First of all, let me express my deep appreciation to you and to the members of your Committee for the preparation and the hearings held on legislation that would provide compensation for victims of crimes in these United States. We, of course, are especially appreciative of the special attention given in your legislation to the Public Safety Officers of this Nation.

I wish to assure you that this organization will do everything possible to secure support of the members of the Senate and Congress for passage of your legisla-

tion.

I hope that all of the sixty locals of our organization, whom you wrote to requesting a reply to your Questionnaire have all responded. I will confine my

answers to those which apply generally to the Fire Service.

Number 4.—As an organization, we strongly feel that Titles II and III should be a supplement to the present programs currently available to our membership in the various States of our country. Senator, I can assure you that to my knowledge, there is no program in existence that provides sufficient protection for the widows and orphans of our members who are killed in the line of duty.

Number 5.—The International Association of Fire Fighters have embarked upon a program to have enacted into law Minimum Standards for Fre Fighters in the various States. Six states have already adopted such a program. The program calls for a Fire Commission to supervise and enforce the requirements of Minimum Standards. We would hope that all States will eventually have such Fire Commissions. We would feel allowing a State Commission to administer an insurance program that was federally subsidized would further urge the adoption of Fire Commissions in each State in the United States.

Number 7.—This question is difficult to answer. It would appear to us that Titles II and III actually complement one another and together provide substantial protection for the victims not only of criminal acts but also for those who suffer death or dismemberment. But to answer your question directly, I would believe that Title II would provide benefits although in a lesser amount for a

greater number of our members.

Number 8.—We strongly feel that all of those who are covered by the term "Public Safety Officer" should be included in the same program. Most municipalities provide the same retirement and insurance benefits and salary structures for Public Safety Officers.

Again, Senator, our deep appreciation to you and your Staff who have spent so much time and effort in the preparation of S. 2994 and we sincerely hope and pray that your legislation will be enacted into law during this session of Congress.

Sincerely yours,

W. H. McClennan, President, International Association of Firefighters.

> MISSISSIPPI STATE PENITENTIARY, Parchman, Miss., January 11, 1972.

Hon. John L. McClellan, Chairman, Subcommittee on Criminal Laws and Procedures, Washington, D.C.

DEAR SENATOR McClellan: This letter is in reference to the benefit programs for "public safety officers" which are currently pending before the Subcommittee

on Criminal Laws and Procedures.

The programs presently available in the way of death and dismemberment programs for public safety officers at Mississippi State Penitentiary are hospitalization, group life insurance and workmens compensation. Under our group life insurance and hospitalization program the employee pays 60% and the state pays 40%. Workmens compensation is paid entirely by the state (100%).

Our insurance costs are comparable to those incurred by employees other than public safety officers in government and private employment in occupations at the same income levels. Our biggest problem is that security guards can only receive \$2,000 life insurance and administrators can only receive up to \$5,000

maximum.

The programs offered by Titles II and III should supplant the existing programs currently available at Mississippi State Penitentiary so that employees can receive more life and dismemberment insurance. At the present time the maximum insurance available to any employee is \$5,000.

Mississippi State Penitentiary prefers a partially Federally underwritten State-run program. I do not see any long-term danger to the independence of local police forces from the establishment of direct Federal salary-type supplements.

If we had to decide between Title II or III, we would prefer to see Title II enacted because Title II would establish a well-rounded Federal-State group life and dismemberment insurance program.

I see no reason why all of those currently covered by the term "public safety

officer" can not be included in the same program.

Sincerely,

THOMAS D. COOK, Superintendent.

STATE OF LOUISIANA,
DEPARTMENT OF CORRECTIONS,
Baton Rouge, December 30, 1971.

Hon, John L. McClellan,

Chairman, U.S. Senate Committee on the Judiciary, Subcommittee on Criminal Laws and Procedures, Washington, D.C.

Dear Senator McClellan: Reference is made to your letter of December 21st, concerning certain proposed benefit programs for "public safety officers".

Those employees defined by S 2994, Correctional Officers in this Department, have available Group Life Insurance, for which the employees pays 50% of the premium and the employer pays 50%. This insurance is available equally to all employees. Double indemnity for accidental death is also provided at no additional cost. All employees are also covered by Workmen's Compensation Insurance which is provided by the employer.

The benefits offered by Titles II and III of S 2994 should supplement programs presently available, and should also specifically include Probation and Parole officers whose lives are as much endangered in the public interest as others who work with criminal offenders. All those who lives are in jeopardy daily should have additional protection for their survivors as a contribution to their peace

of mind, general well-being and more efficient performance of duty.

I would prefer a direct Federal program, as this would best supplement the programs we already have. I believe extensive Federal support is indicated because of the mobility of criminals, which makes many of them the direct concern of the nation or at least several states rather than just the state of their momentary location. I do not see any long term danger to the independence of local police forces from the establishment of direct Federal salary-type supplements. Federal funds have long been used to supplement salaries of certain state and local professional type employees without diminishing their independence.

I feel that Title III and the provision for benefits up to \$50,000 financed under the Omnibus Crime Control and Safe Streets Act of 1968 through the Law Enforcement Administration is desirable.

Thank you for your interest in this area of mutual concern. If I can provide any further information that might be helpful, I shall appreciate the opportunity.

Sincerely yours,

Louis M. Sowers,

Director.

STATE OF NEW YORK,
DEPARTMENT OF CORRECTIONAL SERVICES,
Albany, N.Y., December 29, 1971.

Hon. JOHN L. McCLELLAN.

U.S. Senate, Committee on the Judiciary, Chairman, Subcommittee on Criminal Laws and Procedures, Washington, D.C.

DEAR SENATOR McClellan: This will acknowledge your letter of December 21, 1971 enclosing a copy of S. 2994, which provides for compensation to innocent victims of violent crime.

I have read your proposal with great interest and I think it is an excellent piece of legislation that was long overdue. I want to commend you and your

foresight and beneficence.

As you know, the State of New York already has a statute (Executive Law §§ 620–635) that provides financial assistance to victims of crime. The Federal proposal, however, is more comprehensive and provides a larger payment to victims of crime than the amount allowed under the State statute, which sum is limited to a maximum of \$15,000. Title II of the Federal bill provides for compensation to public safety officers, which includes correction officers, under a Group Insurance Plan partially supported by Federal Funds.

As a corollary to this subject, I would especially like to direct myself to your statement addressed to the Congress in your introduction of this Bill. I have reference to your remark about Attica and your shrewd observation to "convicts 'protesting' their own all too just incarceration." Perhaps you have unwittingly touched a very sensitive area imploring investigation and possible legislation. I have reference to the legal avenues now open to prisoners and their adherents who would destroy our penal system under the guise of civil rights as such term is defined by our Federal Courts. The prison administration is kept so busy defend-

ing meritless civil rights actions in the Federal Courts that they do not have time to devote to their principal task, the administration of the prisons and the rehabilitation of all inmates confined therein.

Please accept my deep appreciation for your support in the field of corrections, and I want to thank you for giving me the opportunity to read your Bill and to comment on it.

Sincerely yours,

RUSSELL G. OSWALD, Commissioner,

ILLINOIS STATE PENITENTIARY,

JOLIET BRANCH,

JOLIET, ILL., December 30, 1971.

(Re: S. 2994, Victims of Crime Act 1972)

Senator John L. McClellan,

U.S. Senate, Committee on the Judiciary, Subcommittee on Criminal Law and Procedures, Washington, D.C.

Dear Sir: After review of S. 2994, we are in accord with the general provisions of this bill and support its passage and implementation at the earliest possible date. We will respond to your request for comments by answering the illustrative

Questions 1 and 2: Presently Correctional Officers (Guards) at the adult penitentiaries are a part of the Illinois State employees group insurance program. (Copy of program enclosed). Coverage, both group health and life, are given at no cost to the employee with additional optional life, and accidental death and dismemberment at low cost by payroll deduction. As the Illinoins group life program compares in dollar amounts to Title II provisions. If the Correctional Officer elects the optional provisions of the Illinois program, we do not feel that Title II would be applied in Illinois. Were the provisions of Title II to be applied in Illinois we would suggest that Sec. 501, page 33, lines 17 thru 20 be rewritten. As Sec. 501, page 33, line 7 and 8 read "deduct from such officer's pay", we do not feel that the officer should be required to inform us in writing if he does not want the insurance. Rather, the insurance should be offered as an optional program which the officer "signs up" for if he wants to participate.

Question 3: The Illinois State Employees group insurance program covers all State employees equally so that there are no special difficulties for the Correctional Officer in obtaining life insurance. We also are not aware of any difficulties or special rates for Correctional Officers who obtained life insurance

prior to the advent of the Illinois program.

Question 4: Definitely. Titles II and III of S. 2994 should supplement not supplant current programs. The present Illinois State program is excellent and matches the provisions and function of Title II. Recently enacted, Illinois State Senate Bill 213 matches the death benefit provision of Title III except that the

maximum dollar amount is \$10,000.

Questions 5 and 6: The two-stage state or Federal program envisioned by Title II of S. 2994 is preferred. Illinois and some other states have already responded well to the insurance needs of law enforcement officers. A "direct Federal program" is simply unnecessary and the possibility of the connotation presented—a national police force—would be unfortunate. The officers salary is the basic motivational force in job performance. Salary supplements must be controlled locally to maintain the individuals motivational dependence at the local level.

Question 7: In regards to Illinois only. Title III would be more appropriate It would augment our State \$10,000 maximum death benefit payment. However, on a national basis it would seem that Title II would be more appropriate for

it would be of benefit to a greater number of individuals.

Question 8: The term "public safety officer" should continue as a group term. Preparing separate programs for the individual correctional officer, police officer or fireman would only lead to an unconscionable dilemma for those planning programs for these individuals. The policeman, firefighter, and correctional officer are each as important as the other in maintaining the public safety.

Sincerely,

JOHN J. TWOMEY, Warden.

STATE OF CONNECTICUT, DEPARTMENT OF CORRECTION, Hartford, Conn., January 11, 1972.

Hon. John J. McClellan. U.S. Senate. Committee on the Judiciary. Subcommittee on Criminal Laws and Procedures, Washington, D.C.

DEAR SENATOR McClellan: Thank you for your correspondence of December 21, 1971, relative to the pending benefit programs for public safety officers. We endorse completely the concepts presented and feel that the benefits which would accrue under them to those people who face exceptional hazards of employment

are long overdue.

One of the problems we have faced in Connecticut relative to special consideration for personnel engaged in hazardous duties has been defining the limits of hazardous exposure. Present legislation in Connecticut provides retirement benefits to people engaged in "guard or instructional duties." The fact that a Correctional Counselor working next to a Correction Officer is excluded from coverage is a constant morale problem. This obviously poor situation appears to have been dealt with by S. 2994 by providing coverage for "a person employed by a state in any activity pertaining to a correctional program, facility, or institution.

On the other hand, it appears that S. 2994 would apply only where state and local plans are not adequate. The interpretation of adequacy will undoubtedly prove to be problematical and presumably will eliminate from coverage the most progressive states, including our own, that have already recognized a need for employee insurance programs. Unless this requirement were eliminated, the alternative S. 33 would have to receive our support. In the material sent, it was noted Senators Kennedy and Humphrey have indicated general approval of extending the provisions of Title II and III to fire fighters and correction officers. Should this extension follow the wording of S. 2994, the problems eluded to earlier would be eliminated and this alternative would become most attractive.

The option of either a direct federal program or a state program appears to be assurance that whatever program a state might develop would have to be in addition to any other general insurance program being offered it's employees. If these measures are to address themselves to the problems of recruitment and retention on the broadest base possible, this approach seems mandated.

The following is in response to the illustrative questions listed:

1. What programs are presently available within your jurisdiction in the way of death and dismemberment programs for "public safety officers" as defined by S. 2994?

Correction Officers enjoy the same benefits as all other state employees in this respect. We are attempting to get a private source to extend the same benefits to the widow of a Correction Officer killed in the line of duty as they do to the families of police officers on a voluntary contribution basis. We are enclosing a copy of Connecticut's State Retirement for information.

2. What costs must be met by those individuals as well as units if government

covered by these programs:

The monthly cost to the state currently is 28.6¢ per 1,000. We are also en-

closing a copy of Connecticut's Life Insurance Program.

3. How do these insurance costs compare to those incurred by employees other than public safety officers in government and private employment in occupations at the same income level?

We understand there is no uniform practice followed in this state, but many companies do consider adversely law enforcement related occupations in their

rating systems.

4. Should the programs offered by Titles II and III of S. 2994 supplement or supplant programs currently available to you?

The greater long-range impact of these proposals would be felt if these benefits

were in addition to present plans available.

5. Which would you prefer, the two-stage state or federal program envisioned by Title II of S. 2994 or a direct federal program or federal subsidy of an existing state or local program as suggested by S. 33 and S. 1946?

As we understand these programs, S. 33 and S. 1946 meet our needs better than

S. 2994, as explained above.

6. Do you see any long-term dangre in the independence of local police forces from the establishment of direct federal salary-type supplements?

We would not be concerned in this respect. The actual impact on salary would not be of the degree to lead to this type problem. The option of offering an alternate state program could be exercised by any state which has this concern. Experience with similar type of arrangements i.e., the State Employment Security Division as well as the Federal Military Insurance Program carried by many of our people has not developed this type problem.

7. Should Congress decide it would be appropriate to enact either Title II (or the alternatives of S. 33 or S. 1946) or Title III, but not both, which would

you prefer to see enacted?

Title II is our preference because this would have the greater impact on up-

grading the caliber of officer due to the probability of benefits accruing.

8. Should all of those currently covered by the term "public safety officer" be included in the same program? Or would it be advisable to set up separate programs for each separate category of "public safety officer?"

We favor one program. Separate programs would act as a wedge among the elements of the criminal justice system which must become more closely aligned.

The history of parity for fire fighters should be recognized.

Very truly yours,

John R. Mason, Commissioner.

SCHEDULE OF GROUP LIFE INSURANCE

ass	Yearly gross compensation	Base amo of insura
	Less than \$4,500	\$8,
	\$4,500 but less than \$5,500 \$5,500 but less than \$6,500 \$6,500 but less than \$7,500	9,
	\$5,500 but less than \$6,500	10,
	\$6,500 but less than \$7,500	- 11,
	\$7,500 but less than \$8,500	13.
	\$8,500 but less than \$9,500	
	\$9,500 but less than \$10,500\$10,500 but less than \$11,500	15.
	\$11,500 but less than \$12,500	10.
	\$12,500 but less than \$13,500	. 1/.
	\$13,500 but less than \$14,500	18,
	\$13,500 but less than \$14,500 \$14,500 but less than \$15,500 \$1	19,
	\$15,500 but less than \$16,500	20,
	#10 500 but loca than \$17 500	۷۱.
,	\$17,500 but less than \$18,500	22,
3.5	\$18,500 but less than \$19,500	24.
	\$19,500 but less than \$20,500	
	\$20,500 but less than \$21,500 \$21,500 but less than \$22,500	26,
	\$22,500 but less than \$23,500	27.
) " .	\$23,500 but less than \$24,500	
2	\$24,500 but less than \$25,500	29.
7 8	\$25 500 but loce than \$26 500	30.
í	\$26,500 but less than \$27,500	31,
	\$27,500 but less than \$28,500	32,
5 '	\$28,500 but less than \$29,500	33,
7		
3 .	\$30,500 but less than \$31,500	35,
9	\$31,500 but less than \$32,500	~~ JO
0	\$32,500 but less than \$33,500	

COUNCIL OF PRISON LOCALS,

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO,

January 13, 1972.

Hon. John L. McClellan,

U.S. Senate, Committee on the Judiciary, Subcommittee on Criminal Laws and Procedure, Washington, D.C.

DEAR SENATOR McClellan: Upon thorough examination of the enclosures of your letter of December 21, 1971, I can readily endorse S-2994, the "Victim of Crime Act of 1972."

Title 1 of this bill offers a long needed consideration to the, heretofore, "neglected innocent victims of violent crimes." In the clamor of recent years over the "rights of the criminals" very little response has been recorded in favor of those individuals who are prey for the criminals. I firmly believe the rights of these innocent victims of crime should have primary consideration over the

perpetrators of any criminal act. By the same token, when the criminal is caught and convicted, he should be held responsible and liable for his actions. This

includes all reparations to the victim and the government.

Title II of this act has long been a need within the realm of State and local public safety officers. A day hardly goes by with the reporting of some instance where these "employees of the public" have been murdered, maimed or injured in the performance of their duties. The articles usually relate the incident and then following articles call for donations from the public to help defray funeral expenses, doctors bills, etc. In cases of loss of life, often the victim's family are the major sufferers in that the family income is terminated and no compensation is available to help cushion the blow of the economic demands that must be met. I believe in human dignity and realize that the welfare type approach to this need is not the solution. We do need a group life and disabilty insurance program as set out in S-2994.

Title III of the act deals with death and disability in line of duty as a result of a criminal offense. Public safety officers, etc., are frequently maliciously attacked for no apparent reason or because of some trumpeted up "protest" is due time some consideration is applied to the victims, their families and dependents, who, due to their office must be society's first line of defense against

these elements who would force their will upon the public.

I would like to say, here again, that the person who commits a criminal act should, upon conviction, be held strictly accountable and pecuniary liable for the act. The government should not have to pick up his "tab." If he is not financially able at the time of the criminal act, his future earning capability should

Title IV of this act also contributes to the need noted in Title I. II and III relating to compensation of victim of crime. We heartily endorse the amend-

ments to S-30.

I have been associated with the Bureau of Prisons for over 24 years and have watched the progress of various concepts in the field of crime and corrections. Trends have varied to the point where direction was in doubt. Concepts have too long ignored and bypassed the evident needs of the field, some of which are covered in S-2994. The Council of Prison Locals endorses this piece of legislation wholeheartedly and trust it will become law during this Congress.

Thanks for the official opportunity to comment.

Sincerely,

GRAVES B. WESTER.

STATE OF NEBRASKA, DEPARTMENT OF PUBLIC INSTITUTIONS. Lincoln, Nebr., January 17, 1972.

Senator John L. McClellan, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR SENATOR McClellan: Enclosed herewith for your information, is a memorandum on proposed Federal Legislation from the Personnel Director, Mr. Cliff Weidenthaler.

Sincerely,

VICTOR G. WALKER, Director. Division of Corrections.

To: Mr. Victor G. Walker, Director, Division of Corrections.

From: C. P. Weidenthaler, Personnel Director. Subject: Proposed Federal Legislation.

After having given some study to the proposed legislation (S. 33 and S. 2994), I have the following comments to make, primarily from the personnel administration standpoint. One of the most favorable features in having such a plan available would be the additional inventive for recruiting as it could well be a form of a fringe benefit that we do not now have. I partcularly favor S. 2994 because of its rather broad scope in Titles II and III under which I would certainly recommend partial subsidization with the employee having to pay part of the premiums. This would assist both in recruitment and retention of employees.

I have numbered my remarks in the order in which the questions are posed

in the accompanying document.

(1) The only coverage available for death and dismemberment of the "Public Safety Officers" is that provided by the State Workmen's Compensation law which is applicable only to job-incurred injuries or death. The one further program available, the cost of which is borne wholly by the employee, is the death or dismemberment coverage provided on a group plan to the employees of the Penal Complex at a cost of approximately \$25.00 per year for a \$2,000.00, double indemnity, policy.

(2) As indicated in #1 above, costs are borne by the employees of the Penal Complex while further Workmen's Compensation funds are provided by the State.

(3) The only insurance costs represented above are rather nominal and compare favorably with similar coverage for private employment. We have not been able to secure any information from other employing agencies that would substantiate any reference to higher rates demanded by insurers for coverage of this type occupation.

(4) It occurs to me that the programs offered by Titles II and III of S. 2994 should both supplement and supplant those programs now available. Such insurance coverage could replace that now being carried by the Penal Complex employees but could supplement that provided by the Workmen's Compensation coverage. Here, again, this would assist in the recruitment and retention of employees and tend to make them feel more secure, both on and off the job with a partially subsidized insurance program that would be much more adequate than they now have.

(5) The two-stage State-Federal program would seem to have advantages over the direct Federal program in that it would simplify local administration of the program which would enjoy the benefits of federal subsidy. Again, the broader scope of S. 2994 would be advantageous as a recruiting tool and serve

as a non-taxable fringe benefit.

(6) As indicated above, the state-administered program would be preferable and presumably be handled in the same manner as the current procedure utilized for the federally financed programs. It is hardly conceivable that this would affect the independence of those employees of this department concerned, the Penal Complex employees.

(7) This question has been responded to in the foregoing with a preference

indicated for Titles II and III of S. 2994 and the reasons therefor indicated.

(8) A reply is difficult here in that we only have one group which would be covered but it does seem that the various categories of "Public Safety Officers" might well be broken apart, although the same type coverage should be available to all, including local police force, penal and correctional forces, highway patrol (?), as well as other municipal, county, and state law enforcement officials.

TENNESSEE STATE PENITENTIARY, Nashville, Tenn., January 12, 1972.

Hon. John L. McClellan, Senate Office Building, Washington, D.C.

DEAR SENATOR McCLELLAN: The comments which you solicited concerning benefit programs for "Public Safety Officers" in your letter of December 21, 1971, are enclosed.

Thank you very much for the opportunity to participate in this worthwhile

effort.

Respectfully,

J. H. Rose, Warden.

1. Tennessee Correctional Officers are offered insurance coverage with the Provident Life and Accident Insurance Company.

The above plan provides the following coverage:

Life Insurance: \$7,500, single and married; \$1,000, spouse; \$500, each child; \$600, misc. (medication, etc.); \$450, surgical coverage; \$20,000, major medical coverage; \$36 hospital room coverage.

Accident Insurance: \$15,000, single and married; \$9,000, spouse, if no children;

\$5,000, spouse, children; \$2,000 each child.

2. The Correctional Officer bears the cost for insurance coverage as described

\$16.23 per month to \$19.30, depending on officers pay bracket for married officer. \$7.89 per month for single officer.

3. Information not available.

4. The programs offered by Titles II and III of S 2994 should supplement programs currently available if greater coverage is guaranteed and, provided the premium costs would be reduced for the individual officer.

5. A two-stage State or Federal Program as envisioned by Title II of S 2994.

WHY-Because of what appears to be broader coverage.

6. No.

7. Title II, WHY-See remarks in 4 and 5 above.

8. All should be covered by the term, "Public Safety Officer".

Attica Correctional Facility, Attica, N.Y., January 20, 1972.

Hon. John L. McClellan, U.S. Senate, Washington, D.C.

Dear Senator McClellan: In answer to your request of December 21, 1971 regarding proposed benefit programs for public safety officers, I am pleased to answer your questions as follows:

1. What programs are presently available within your jurisdiction in the way of death and dismemberment programs for "public safety officers" as defined by

S. 2994?

Programs presently available for New York State employees are a) New York State Retirement System ordinary or accidental death benefits, b) New York State Division of Compensation death benefits, c) Social Security death benefits.

2. What costs must be met by those individuals as well as units of government

covered by these programs?

Compensation and retirement death benefits are borne by the State. Cost of

Social Security benefits are borne jointly by employee and State.

3. How do these insurance costs compare to those incurred by employees other than public safety officers in government and private employment in occupations at the same income levels?

Same.

4. Should the programs offered by Titles II and III of S. 2994 supplement or supplant programs currently available to you?

It is my belief that these programs should supplement present programs in

order to insure adequate compensation.

5. Which would you prefer, the two-stage State or Federal program envisioned by Title II of S. 2994 or a direct Federal program or federal subsidy of an existing state or local program as suggested by S. 33 and S. 1946?

I would prefer a direct Federal program to augment existing State programs

in order to insure adequate compensation.

6. Do you see any long-term danger to the independence of local police forces from the establishment of direct Federal salary-type supplements?

No.

7. Should Congress decide it would be appropriate to enact either Title II (or the alternatives of S. 33 or S. 1946) or Title III, but not both, which would you prefer to see enacted?

I would prefer the Title III programs because it seems to me that this furnishes

superior benefits.

Thank you for your efforts in this worthwhile quest to provide adequate compensation and benefits for the Correction Officer and other public safety officers. I hope that you will be successful in achieving passage of this legislation.

Very truly yours,

VINCENT R. MANCUSI, Superintendent.

STATE OF ARIZONA,
DEPARTMENT OF CORRECTIONS,
Phoenix, Ariz., January 19, 1972.

Senator John L. McClellan,

U.S. Senate, Committee on the Judiciary, Subcommittee on Criminal Laws and Procedures, Washington, D.C.

DEAR SENATOR McClellan: Mr. Allen Cook, Director, Arizona Department of Corrections, has referred your inquiry of December 21, 1971, to me for appropriate comments. The following numbered paragraphs refer to your illustra-

tive questions enclosed as a portion of the memorandum on "Public Safety Of-

ficers" and S. 2994, the "Victims of Crime Act of 1972."

Number 1. Public Safety Officers as defined by S. 2994 in Section 500 (5B) and Section 525 (3B) could include all employees of a prison, halfway house, community center, and field parole officers, unless selective categories were excluded by regulations issued by the Administration as would be authorized by the Enabling Act. It is certainly better coverage than the reference in the Introductory Statement of S. 2994 on Page 2, Line 6 to "correctional guards" and Section 201, Line 21.

I am enclosing as Attachment A the Arizona Statute which defines "hazardous duty" for purpose of establishing eligibility for a special retirement program. (A.R.S. 41–1610). In our current budget proposal, the Department of Finance has disallowed a portion of our funding request on the basis that too many cate-

gories of positions were included in our estimate.

The program presently available within our jurisdiction is our State coverage under Arizona Revised Statutes, Section 23–1043, as provided by the Workmen's Compensation Fund. There is a statutory schedule related to average monthly compensation and the nature of the injury. Other programs are paid for by employees and are described in the brochures enclosed as Attachments B and C.

Number 2. The cost of the Blue Cross and Blue Shield Program for all employees on the Family Plan is \$37.20 per month or for a single employee \$16.00

per month. The Dual Income Plan cost is \$4.00 per month.

Number 3. We have no information on comparative costs other than to note that the above programs are available to all employees and our Department has no special programs for correctional guards. It is my personal recollection that when working as a Deputy Prison Warden, my life insurance policy rate

was higher than that for the Warden and other employees.

Number 4. The programs offered by Titles II and III should supplement the present programs to provide additional monetary benefits for the selective categories of employees over and beyond the present existing programs available to all employees. It is our opinion that the contemplated categories are more likely to suffer injury than most other state employees because their duties require them to more frequently come into direct contact with criminal offenders.

Number 5. The Federal Program suggested by S. 33, S. 1946, or S. 2995 would appear to not discriminate against public safety officers not having available state or local group life insurance coverage. S. 2994 it appears would not be established in states where life insurance was already available to public safety officers. Therefore, they would lose the benefits of the subsidy meant to bring the cost of life insurance below commercial levels to help those who cannot afford it now.

Number 6. I see no long time danger to the independence of police forces from the establishment of a federal supplement, in view of the provisions of Title 42, United States Code, Section 3766 (A) which bars all federal departments and personnel from exercising "any direction and supervision or control over" any

state or local law enforcement agency.

Number 7. It would appear that Title II, should Title III not be available, would be preferable inasmuch as it would reach a greater number of individuals. The Arizona Department of Corrections was established in 1968 and to date we would not have had an incident which would result in eligibility under Title III. We made some inquiry last year with reference to a proposal introduced in the Arizona Legislature as S.B. 94 and included as Attachment D. This measure failed to receive Committee approval but is submitted as another alternative approach to some of the problems resulting from the deaths of correctional guards.

Number 8. One reason to have the program cover the broad category of "public safety officer" would be to permit a greater transfer or mobility between these categories as part of career development. One of our present difficulties encountered in recruitment of police officers into correctional programs is the vested interest they may have in a retirement system. It would seem that some provision might be required in the proposed measures which would clearly indicate that a person eligible in one of the sub-categories if employment was changed to another category would continue to be able to retain his group life insurance benefits. In view of the responsibility of the Department of Corrections concerning

policy matters, please consider this reply a response to your similar inquiry to Mr. Frank A. Eyman, Superintendent, Arizona State Prison, Florence, Arizona.

In light of your reference and comment concerning S. 2995, a copy is also being provided Senator Edward M. Kennedy as a response to his letter of December 29, 1971.

Sincerely.

ALLEN COOK, Director.
By: A. LAMONT SMITH, D.P.A., Deputy Director.

COMMONWEALTH OF KENTUCKY,
DEPARTMENT OF CORRECTIONS,
Frankfort, Ky., January 27, 1972.

Re Senate Bills 2994 and 2995.

Attention: Mr. G. Robert Blakey, Chief Counsel.

Hon. John L. McClellan,

Chairman, Subcommittee on Criminal Laws and Procedures, U.S. Senate Judiciary Committee, Washington, D.C.

DEAR SENATOR McCLELLAN: In reply to a memorandoum requesting information concerning Senate Bill 2994, our response is enclosed. If we can be of further assistance please let us know.

Sincerely,

J. E. BAKER, Deputy Commissioner.

1. What programs are presently available within your jurisdiction in the way of death and dismemberment programs for "public safety officers" as defined by S. 2994?

The Commonwealth of Kentucky provides a group life and dismemberment policy to all employees of the Commonwealth. This includes, of course, personnel under the Department of Corrections. The policy is issued by a Kentucky based insurance company.

The provisions in the group policy are as follows:

(a) \$5,000 life and dismemberment coverage, that is paid by the Commonwealth

for each employee at $67 \phi/\$1,000$, or \$3.35 per month for \$5,000.

(b) The employee has an option, to be made within ten days of employment, for an additional \$5,000 life and dismemberment coverage, which is paid for by the employee by way of payroll deduction. The cost to the employee is 67e/\$1,000, or \$3.35 per month for the \$5,000.

(c) Also offered to the individual employee is an additional \$5,000 life and dismemberment policy. At this point, evidence of insurability is required, and the cost, assuming an average age bracket of 35 years, is \$3.15 per month for \$5,000.

It should be noted that, as to ratings for life insurance, the Correctional Officer is not in a higher risk group than a secretary, which is standard.

2. What costs must be met by those individuals as well as units of government covered by these programs?

The answer to this is reflected in the response to question No. 1.

3. How do these insurance costs compare to those incurred by employees other than public safety officers in government and private employment in occupations

at the same income levels?

The comparison of insurance costs at the same income levels was not available due to the absence of cost figures. Due, however, to the standard rating applied to Correctional personnel, there is no reason to assume that the cost for life insurance would be more than any other occupation. Also, it would not follow that insurance companies would be reluctant to write such policies to a Correctional Officer.

The accidental death and dismemberment coverage cost may present some discrimination against Correctional Officers. The cost for the coverage may be up to double the regular premium, but this would be determined by ascertaining the location of the Correctional Officer. For example, an officer at the Commonwealth's Penitentiary would have to pay more in premiums than a Correctional Officer located at the Commonwealth's Women's Institution. The difference is due obviously to the different types of inmates at the two institutions.

4. Should the programs offered by Titles II and III of S. 2994 supplement or

supplant programs currently available to you?

Due to other qualifying requirements for an insurance company outlined in Senate Bill 2994, the program offered would supplant those programs presently available to the Commonwealth.

5. Which would you prefer, the two-stage State or Federal program envisioned by Title II of S. 2994 or a direct Federal program or Federal subsidy of an

existing State or local program as suggested by S. 33 and S. 1946?

It would be preferable to have a direct Federal program or Federal subsidy of an existing State or local program envisioned by Senate Bill 2994. The reasons for the preference are that: S. 2994 does not indicate whether the group life insurance program is a continuing operation. If if is not a continuing operation it would necessitate a renewal of the grant at the end of each grant period. And, funds received through LEAA would help only to pay the State's administrative cost for the insurance program rather than subsidize the premiums.

6. Do you see any long-term danger to the independence of local police forces

from the establishment of direct Federal salary-type supplements?

While the question does not refer to Correctional Officers, it is felt that no

long-term damage would exist.

7. Should Congress decide it would be appropriate to enact either Title II (or the alternatives of S. 33 or S. 1946) or Title III, but not both, which would you

prefer to see enacted?

It is felt that the enactment of Title III would be more desirable, the reason being that the discrimination feared would be more likely to occur in the issuance of an accidental death and dismemberment policy by an insurance company. As previously stated, this type of discrimination is present in the Commonwealth of Kentucky.

8. Should all of those currently covered by the term "public safety officer" be included in the same program? Or would it be advisable to set up separate pro-

grams for each separate category of "public safety officer?"

It is felt that either choice would result in a higher premium cost. The reason for the higher cost would be that gathering all the public safety officers together under one program would result in a possible stricter risk rating. It would be much better to keep the public safety officers in a group plan that would include all Commonwealth employees. The cost of this program would reflect the wide range of job classifications of which a large majority is clerical workers.

> STATE OF CALIFORNIA, HUMAN RELATIONS AGENCY. DEPARTMENT OF CORRECTIONS, Sacramento, January 18, 1972.

Hon. JOHN L. McCLELLAN, Senate Office Building, Washington, D.C.

DEAR SENATOR McClellan: Warden Nelson forwarded your request for comments on the several programs for public safety officers.

You posed a number of illustrative questions. Answers to these include the

following:

Death and dismemberment programs are available from state, federal

(social security) and private insurance organizations.

Safety membership employees (our correctional officers, but not many other line employees) contribute 7 percent toward their retirement plan (which includes death and disability features) and the state contributes 18.5 percent. Miscellaneous members—some of whom work alongside the correctional officers—contribute 7 percent and the state contributes 7 percent. There are differences in benefits in favor of the safety member group. Both plans are subject to modification by social security.

Our officers have experienced no difficulty in obtaining good coverage at good

We would prefer that any federal plan supplement state plans and that the basic plan remain under state control. If a choice had to be made between Title II and Title III, we would prefer to see Title III enacted since death benefits to survivors is the weakest part of our current program.

All of the safety members should be in the same program. Otherwise there will be competitive pressures for divergence and benefits may be increased for one segment at the expense of another creating morale and recruiting problems.

Sincerely,

R. K. PROCUNIER, Director of Corrections.

U.S. SENATE, COMMITTEE ON THE JUDICIARY, SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURES, Washington, D.C., December 21, 1971.

SPECIMEN LETTER TO INSURANCE COMPANIES

Enclosed is a Memorandum and various supporting papers relating to the "Victims of Crime Act of 1972" (S. 2994) which, in Title II, would establish a Federal-State group life and dismemberment insurance program for State and local public safety officers, including policemen, firefighters and correctional guards.

We would appreciate your consideration of, and comment upon Title II, based upon your experience with group life insurance programs. In this regard, your actuarial expertise would be particularly valuable to this Subcommittee.

Any questions which you might have may be referred to our Chief Counsel,

Mr. G. Robert Blakey, Area Code 202/225-3281.

Thanking you in advance for your public service, I remain,

Sincerely yours,

JOHN L. MCCLELLAN.

MEMORANDUM

(Title II of S. 2994, the "Victims of Crime Act of 1972")

INTRODUCTORY NOTE

On December 11, 1971, Senator John L. McClellan, Chairman of the Subcommittee on Criminal Laws and Procedures of the United States Senate Judiciary Committee, introduced for himself and sixteen cosponsors a bill, S. 2994, the "Victims of Crime Act of 1972."

Broadly outlined, Title II of 2994 would establish a Federal-State group life and dismemberment insurance program for State and local "public safety officers." In the first instance, insurance programs would be supported on the State level by the Law Enforcement Assistance Administration established by the Omnibus Crime Control and Safe Streets Act of 1968 (P.L. 90-351). But where commercial insurance was not available at competitive costs and a State failed to establish an adequate program, the Department of Justice itself would be authorized to establish a direct insurance program. Under the direct program, the insurance would be in the amount of an officer's annual salary plus \$2,000 with a minimum coverage of \$10,000 and a maximum coverage of \$32,000.

Under a state insurance program established pursuant to the amended 1968 Act. Federal contributions could range up to 75%, while under the direct Federal program, premiums would be paid by individual participants, but could be

reduced by Federal contributions not to exceed 25%.

ALTERNATIVE APPROACH TO TITLE II

S. 2995, introduced by Senator Kennedy, is identical to S. 2994 in all respects, except its treatment of Title II.

The salient differences between this alternative proposal and the approach of

- Title II of the "Victims of Crime Act" may be summarized as follows:

 1. S. 2994 is, in the first instance, a partially Federally underwritten State run program, while S. 2995 would be a partially Federally underwritten Federal program.
- 2. S. 2994 would authorize a direct Federal program only where private or State plans were inadequate, while S. 2995 would authorize a Federal program

3. Where a direct Federal program was established under S. 2994 the Federal share would be up to 25%, while under S. 2995, the Federal share would be up to 331/3%.

4. S. 2994 in conjunction with the 1968 Crime Control Act, would authorize 75% Federal support of State plans, while S. 2995 would authorize 75% of up to 331/3% of the cost of a State program.

5. S. 2995 would permit officers by units of governments to elect to participate in the Federal or the State program, while S. 2994 contains no election feature.

SCOPE OF INQUIRY

At this juncture, it appears likely that a refined version of the "Victims of Crime Act" will be processed by the Congress prior to the close of 1972.

As the Subcommittee on Criminal Laws and Procedures considers Title II of S. 2995 and viable alternative approaches, it will draw upon the experience and expertise of interested individuals across the country in an effort to further our work product.

As an insurance company writing group life programs, you are particularly

well-qualified to comment upon this measure.

Attached are copies of Senator McClellan's and Senator Kennedy's remarks on the introduction of their proposals which include the texts of their respective bills.

To assist you in your analysis, the following are some questions which will face the Congress in the months to come. These questions are not intended to be exhaustive of the problems presented by this proposed legislation, and they should be utilized only to the extent they serve your purposes.

ILLUSTRATIVE QUESTIONS

1. What insurance programs are generally available from private companies in the way of death and dismemberment programs for "public safety officers" as defined by S. 2994?

2. In typical programs what costs must be met by those individuals as well

as units of government covered by these programs?

3. How do these insurance costs compare to those incurred by employees other than public safety officers in government and private employment in

occupations at the same income levels?

(Please include here any information available to you to indicate whether or not public safety officers have difficulty obtaining adequate life insurance because of the reluctance of companies to write such insurance or low salaries, have to pay higher rates than other government employers, are excluded from double indemnity coverage, etc.)

4. From an insurance perspective, which would you prefer, the two-stage State or Federal program envisioned by Title II of S. 2994 or a direct Federal program or Federal subsidy of an existing state or local program as suggested

by Title II of S. 2995? Why?

5. Do you see any long-term danger to the independence of local police forces

from the establishment of direct Federal salary-type supplements? Why?

6. Assuming approximately one million "public safety officers" would be eligible for inclusion in the group nationally, would the program be more attractive to you under the approach of S. 2994 or S. 2995?

7. Can you estimate the cost per thousand dollars of insurance coverage under each of the alternative approaches, assuming the average policy will be for

\$11,000?

8. Is one alternative more realistic than the other in terms of administration,

e.g., number of collection points involved?

9. How many insurance companies would be prepared or eligible to handle

each of the proposals?

- 10. From an insurance perspective, should all of those currently covered by the term "public safety officer" be included in the same program? Or would it be advisable to set up separate programs for each separate category of "public safety officer?"
- 11. Can the draftsmanship of either proposal be improved to simplify the subsequent writing of a policy or policies?
- 12. Please add any additional comments you desire including comments on the actuarial soundness and feasibility of the proposed programs.

New England Mutual Lafe Insurance Co., Boston, Mass., March 20, 1972.

Hon. John L. McClellan, Chairman, Subcommittee on Criminal Laws and Procedures, U.S. Senate, Washington, D.C.

DEAR SIR: It is a pleasure to respond to your request for comments on Title II of the "Victims of Crime Act of 1972" (S. 2994) and the alternative approach

to Title II (S. 2995). I have organized my comments into three areas which are the availability and cost of private group insurance, advisability of the proposed programs, and costs of the proposed programs.

AVAILABILITY AND COST OF PRIVATE GROUP INSURANCE

Insurance programs covering occupational and non-occupational death and disability are generally available for "public safety officers". The cost for public safety officers is slightly higher than the cost for groups without any occupational hazard. The higher costs are closely associated with the accidental death and dismemberment coverage and with groups of officers located in the major cities. When the policy is issued to an association, the officers pay for the insurance coverage through the association dues. When the policy is issued to a political subdivision, the political subdivision pays some or all of the cost of the insurance.

ADVISABILITY OF PROPOSED PLANS

The insurance industry is willing to provide the occupational and non-occupational benefits considered under Title II and Federal participation should be limited to providing additional insurance for occupational deaths and disabilities as outlined in Title III. The Title III benefit satisfies a social need by providing the public safety officer with additional benefits male necessary by this occupation. He is then on a par with other private and public employees who do not have a specific risk associated with their occupation. Why should Federal assistance (beyond Title III) be provided for one segment of our public employees and not for other public and indeed private employees, particularly when doing so would put the Federal Government in competition with a private insurance industry that is willing to meet the insurance needs of these individuals.

If Federal participation is to extend beyond Title III, it would be preferable to see it limited to a cost sharing without providing an optional Federal insurance plan. This cost sharing should be available to either statewide insurance plans for public safety officers or to individual localities that insure their public

safety officers under the same policy as other public employees.

COST OF PROPOSED PLANS

Presently the cost of providing life insurance benefits to public safety officers is shared by the officer and the local taxpayer. Both proposed plans introduce a third party in the cost sharing—the Federal taxpayer. The portion of the cost that each of these groups bears is particularly important to that group. However the total cost borne by all three parties is the cost figure that deserves the most attention.

The mortality and morbidity costs per \$1000 of insurance should be approximately the same under either of the proposals or under a continuation of the existing system of providing benefits solely through private insurance. The aggregate mortality and morbidity costs would increase under either of the proposals since more insurance would be made available to public safety officers. Since the mortality and morbidity costs of the plans are approximately identical, any cost differences between the plans will come from the expense levels incurred under each plan. The additional expense of the Federal and/or state administrative machinery has to be compared with the expense savings that would be realized by writing one Federal insurance policy (or several state policies) in lieu of many smaller private policies.

This letter covers the portions of this subject on which I feel qualified to comment. For example, I have not discussed the potential danger to the independ-

ence of local police forces.

Please feel free to contact me if I can be of further assistance.

Sincerely,

A. MICHAEL FOSTER, FSA,
Assistant Group Actuary,
Group Life and Health Actuarial.

OCCIDENTAL LIFE OF CALIFORNIA, Los Angeles, Calif., March 7, 1972.

Hon. JOHN L. MCCLELLAN,

U.S. Senate, Committee on the Judiciary, Subcommittee on Criminal Laws and Procedures, Washington, D.C.

Dear Senator McClellan: We are writing in answer to your letter of January 7. The answers to your questions will be provided in the same numerical order as the questions themselves. The questions have not been repeated.

1. Within our Company insurance programs are available to public safety officers in basically two ways. Where the policy is issued to a public body such as a municipality or city, or an association representing the employees of such a body, the insurance provided to public safety officers will normally be provided on the same basis as that provided all other employees or members. Any rating due to hazardous occupation would be averaged over the group as a whole.

We also have group policies issued to police relief associations and similar groups where the main number, if not the total number of eligibles represent public safety officers. In such instances the amounts of insurance are usually in accordance with whatever scale has been requested and there may or may not be an industry loading. As a matter of fact, the larger groups do not contain an industry loading providing coverage is not extended to retired lives.

2. Where the government body is paying a portion of the costs the balance must be met by the insureds. Where the program is issued to an employees' association the full cost is normally borne by the insureds. At the present time our estimate as to the average cost per thousand would vary from 30ϕ to 50ϕ per month

per \$1,000 of Life and AD&D.

3. It is our belief that the costs compare very favorably to costs available to employees of other occupations. The reason for this being that the health requirements for active public safety officers are usually more stringent and more stringently enforced than for employees in other occupations and we believe that this offsets, at least in large part, any additional loadings that would be required due to the hazardous nature of the occupation. In our Company there is no reluctance to writing insurance on public safety officers due solely to their occupation.

4. From the standpoint of our own beliefs, we would prefer a two stage state or federal program envisioned by Title II, of S. 2994. We believe that if there are individuals in this occupation who cannot obtain reasonable life insurance due to their occupation that it would not be unreasonable for the Federal Government to encourage a program where such a handicap would be overcome. However, where the failure to obtain such insurance is due to other causes which are shared by other government employees, or other employer-employee groups in the area, we have serious reservations as to the propriety of the government of setting up a program to provide favored treatment to only one segment of the

working population.

5. With the long history of instances where control, or attempts to control behavior follow financial subsidies, we believe it is not unreasonable to anticipate some danger of independence of local policy forces if such a federal program is enacted. However, we would expect such danger to be minimal if the program is, in fact, restricted to a very modest financial investment, and that provided only where needed, in order to encourage local participation and establishment of such a life benefit program which 2994 apparently envisions. It would be our hope that once the encouragement of the federal program has resulted in all public safety officers actually being provided with insurance, either through the federal program or through the various local programs, that those local groups not currently providing insurance for their members would be spurred to exert their efforts toward actually instituting a program that would be as good or better than the federal program. Such a reaction would hopefully result in a drying up of the need for the federal program and the program would then have served as a sort of "pump primer."

If the foregoing hopes are not realized we believe it is realistic to assume that the federal program can only be expected to grow and become more costly in future years with great pressure to increase the benefits and broaden the eligibility. We would further anticipate that under these conditions it would be relatively easy for some form of federal control to usurp some of the prerogatives that are

currently exercised locally.

6. Assuming that the various accounting and administrative details can be worked out, we prefer the type of program outlined under S. 2994 for the reasons mentioned above.

7. It is not possible at the present time to give a reasonably firm estimate as to the cost per \$1000 of insurance coverage under either program. However, we would not anticipate any marked differences in cost per \$1000 of insurance re-

gardless of which program is underwritten.

8. From the standpoint of a generalized approach, we believe S. 2995 would probably lend itself to a more standardized administrative procedure. However, the allowance of individuals to choose whether or not they will be eligible, or to allow such choices to be made for groups of individuals at the local level, would probably cause the actual administrative procedures to approach those that would be required in S. 2994.

9. We don't know how many insurance companies would currently be prepared to handle proposals of this nature. We would presume that any of the larger carriers would be anxious to participate in a program either as the sole carrier

or as one of several carriers, and either on a direct or reinsurance basis.

10. In our opinion, it would be more desirable to have all individuals to whom the term "public safety officer" would be applicable insured in a single program. If there is to be more than one program envisioned, we believe that the description should be in terms of geographical areas, not in terms of the type of public safety officer. While there are probably differences in the occupational hazards attached to the various sub-occupations of "public safety officer," we do not believe that differences are sufficiently great, nor dependable, so as to warrant the increased administration costs that would be incurred by attempting to discriminate the various categories in order to establish separate programs for each. On the other hand, a geographical basis established for those programs could have certain administrative advantages.

11. We believe that we are not in a position to make constructive comments on the draftsmanship of either proposal at the present time, since a more concrete determination of the actual program and its workings should probably be avail-

able before any final changes in draftsmanship should be made.

12. In our opinion there is no reason why a program of this nature should not be actuarially sound. However, we do not have the necessary statistics available

to us to actually test the soundness of any specific proposal.

13. As apparently contemplated, the program would be a group program under which, when the individual ceases to be eligible, he would be entitled to conversion rates. One of the questions that possibly should be investigated before the program is actually put together is the probability of the individual having to convert to a policy containing extra costs because of his classification as a "public safety officer."

Whether or not such costs would actually be levied and to what extent would probably vary by insurance company, and also by the circumstances under which

the individual can be expected to lose coverage in the sponsored plan.

It has been a pleasure to attempt to help you in your search for information and guidance in evaluating the needs and attempting to provide for the installation of a program of this nature. As you can tell from our comments, we find it difficult to provide specific guidance at this stage. It is our experience that until the concrete details of a program are actually available and an attempt is made to put them together in a workable manner, approaches based on general actuarial background, while helpful, can be misleading if pressed too far.

Please let us know if we can be of any further assistance.

Sincerely,

KARL H. ANDERSON, Executive Vice President.

METROPOLITAN LIFE, New York, N.Y., March 8, 1972.

Mr. Kenneth Lazarus, Room 2204, New Senate Office Building, Washington, D.C.

Dear Mr. Lazarus: In accordance with our telephone conversation the other day, I am enclosing a copy of the study Metropolitan made some years ago of the mortality among Law Enforcement Officers.

Incidentally, a typographical error appears in the schedule of estimated annual claim costs shown on page 2 of my letter of February 29, 1972. The correct figure for ages 60–64 should be \$60 instead of the \$50 shown in my letter.

Sincerely,

W. S. THOMAS, Executive Vice President.

(Re Estimated Annual Claim Costs for Life and Accidental Death and Dismemberment Coverage Under a Federal Group Insurance Plan for Law Enforcement Officers)

In connection with the estimation of annual claim costs for the insurance coverage provided under Senator Kennedy's January 15, 1969 bill, the following

sources of mortality data on law enforcement officers were reviewed:

(1) U.S. Department of Health, Education and Welfare Vital Statistics Report, "Mortality by Occupation and Industry Among Men 20 to 64 Years of Age. United States, 1950." This report, which is based on the 1950 Census of Population and on deaths in 1950, has the latest available mortality rates by age for law enforcement officers based on population data. This experience is shown in Exhibit 1 attached.

(2) The "1967 Occupation Study—Society of Actuaries" which gives mortality rates by broad age groups at time of issue of the policy for law enforcement officers covered under standard and substandard Individual Life insurance policies. This experience is shown in Exhibit 2 attached. The lower mortality rates than in the population study shown in Exhibit 1 reflect the selection processes which are applied to applicants for Individual Life insurance policies.

(3) The 1965 Report of the Society of Actuaries' Committee on Group Insurance Mortality, which gives the 1955–1964 experience on police insured for Group Life insurance, shows a death rate of 5.84 per 1,000 for age 65 and under. While this rate is, as expected, higher than that for law enforcement officers covered under Individual insurance policies as shown in Exhibit 2, it is lower than that based on population data shown in Exhibit 1. This probably reflects the fact that police groups with Group Life insurance coverage most likely have stricter selection standards than those which would be found in the average police department.

(4) The "Uniform Crime Reports" published annually by the Federal Bureau of Investigation which give nationwide data on the number of law enforcement officers killed by criminal action each year as well as the number killed in accidents connected with their duties. For the years 1965 to 1967 the death rate for police killed in the line of duty was 0.32 per 1.000, excluding accidents, and

0.52 per 1.000, including accidents.

(5) The Annual Reports of the New York City Police Department which give the total number of deaths among that Department's members each year as well as a breakdown by cause of death between natural and accidental causes. For the years 1965 to 1967 the all-cause death rate was 2.2 per 1,000; the occupational accidental death rate was 0.2 per 1,000; and the combined occupational and nonoccupational accidental death rate was 0.4 per 1,000.

(6) The available experience on groups insured by Metropolitan which were composed completely or partially of law enforcement officers. In general, the exposure on these groups was too small to give meaningful experience for this

study. The experience on some of these groups is given in Exhibit 3.

In view of the nationwide availability of the proposed coverage and the variation in mortality by size of department and geographic location, it is recommended that the cost for Life insurance only be based on the mortality rates given in the report referred to in item 1 above. These rates, after combining ages 20 to 34 in one age group, are shown in Table I below and are compared to the Commissioners 1960 Standard Group Mortality Table (1960 CSG):

TABLE I

Age group	Central age	Law enforce- ment officers' mortality rates per 1,000	Ratio to 1960 CSG (percent)
20 to 34	27	1. 66	72
35 to 44	40	4. 52	113
45 to 54	50	15. 53	163
55 to 59	57	30. 93	174
60 to 64	62	48. 67	183

The ratios of the population mortality rates to the 1960 CSG rates, using central ages, show an increasing trend by age, which very likely reflect the selection exercised on entrance into this occupation.

The rates in Table I were increased 10 percent to provide a margin for fluctuations in experience. In addition, the rate for ages under 35 was increased so that

it would not be below that for the 1960 CSG Mortality Table.

The resulting rates were then increased 10 percent to provide for a Waiver of Premiums Disability Benefit. The 10 percent is based on the 1955–1964 disability and death rates given in Table 3 of the 1965 Reports of the Society of Actuaries' Committee on Group Insurance Mortality.

Based on the Uniform Crime Reports for the years 1965-1967, the accidental death rate from occupational causes (criminal action and accidents) is, as indicated above, about 0.5 death per 1,000 per year. The Annual Reports of the New York City Police Department, while showing a lower occupational accidental death rate than the nationwide report, show that the occupational accidental death rate is about half of the total occupational and nonoccupational death rate. Using this ratio would produce one death per 1,000 per year for 24-hour accidental death coverage.

Using the above mortality, disability and A.D. & D. costs with no provision for any expense charges, the following estimated annual claim costs were derived:

Estimated Annual Claim Cost Per \$1,000 of Life and Accidental Death and Dismemberment Insurance Age group:

St	Stoup	•		
	Under	35	\$3.5	0
	35-44		6. 5	
	45-54		20.0	0
	55 - 59		38, 50	()
	60-64	~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~	60.0	0

EXHIBIT 1 1950 POPULATION MORTALITY EXPERIENCE ON POLICEMEN, SHERIFFS, AND MARSHALS

	Number of	Death rate
Age group		per 1,000
20 to 24	14	1, 33
25 to 29		1.57
30 to 34	49 59	1.85
35 to 44	271	4, 52
45 to 54	801	15, 53
55 to 59	55 7	30, 93
60 to 64	581	48, 67
20 to 64	2, 332	1 8, 50

¹ Based on the age distribution of almost 250,000 law enforcement officers taken from the 1960 U.S. census data. Source: "Mortality by Occupation and Industry Among Men 20 to 64 Years of Age: United States, 1950"—U.S. Department of Health Education, and Welfare, Vital Statistics, Special Reports, vol. 53, No. 2, September 1962.

EXHIBIT 2

1967 OCCUPATION STUDY—SOCIETY OF ACTUARIES: MORTALITY ON POLICEMEN, DETECTIVES, MARSHALS, SHERIFFS, AND CONSTABLES

[Includes lives in standard and substandard underwriting classifications]

Issue age	Number of deaths	Mortality rate per 1,000
20 to 29	36 101 102 62	0. 9 2. 7 6. 8 18. 8
Total	1 301	3. 1

¹ Includes 42 accidental deaths.

Source: 1967 Occupation Study-Society of Actuaries.

EXHIBIT 3

MORTALITY EXPERIENCE ON MUNICIPAL GROUPS WITH METROPOLITAN GROUP LIFE COVERAGE
WHICH INCLUDE POLICE

			Claim experience on entire group	
Name of group	Number of lives currently covered	Period	Annual claim cost per \$1,000	
Group A	16 police, 25 others	1965–68	\$18.96	
Group B.			15. 00	
Group C			5. 76	
Group D			9. 12	
Group E			3, 84	
Group F		1960-68	5, 8	
Group G.			2.04	
Group H		1962-68	9, 00	
Group I		1966-68	9. 13	
Group J			15. 13	
Group K	67 police, 255 others	1965-69	9, 7	
Group L			1. 92	
Group M			3, 60	
Group N			9. 98	
Group O			11. 80	

Note: Weighted average annual claimcost per \$1,000 for all the above groups-\$8.39.

Connecticut Life Insurance Co., Hartford, Conn., February 15, 1972.

Senator John L. McClellan, Committee on Judiciary, U.S. Senate, Washington, D.C.

Dear Senator McClellan: Thank you for inviting our comments on Title II of S-2994 and S-2995 versions of the Victims of Crime Act of 1972. William W. Keffer, Senior Vice President for Group Insurance, has asked me to offer you our thoughts on this legislation.

We feel that Group Life and Death and Dismemberment benefits are generally available for public safety officers and, in fact, are normally purchased as part of a large plan at standard rates. The potential cost savings inherent in the proposed bills are slight and this would be offset in varying degrees by administrative complexity of a Federal program.

A response to several of your "illustrative questions" might best express our views on these bills.

1. AVAILABILITY OF PRESENT GROUP INSURANCE FOR PUBLIC SAFETY EMPLOYEES

The kind of coverage you propose is already available to virtually all public safety employees working in local, state or Federal governments. It may be true, though, that the impoverished condition of some state and local governments prevent them from purchasing an adequate Group insurance program for their public safety employees.

2. HOW PREMIUMS ARE PAID IN TYPICAL PROGRAMS TODAY

Normally, the employer pays at least 50% of the total cost of a Group insurance program. There is a trend towards employers picking up an increasing percentage of the total cost and instances of the employer paying the total cost are becoming more and more frequent.

3. COST OF PRESENT INSURANCE PROGRAMS

The premium rates for public safety employees normally contain a load in the range of \$.12 to \$.24 per \$1,000 per month for Life insurance and \$.12 for D&D. The load reflects the extra mortality, a portion of which is occupational in nature, that is associated with these groups. It is important to note, however, that separate Group insurance policies are seldom purchased to cover public safety officers alone. The normal practice is for the employer, be it a city or county or state, to purchase Group Life and Death and Dismemberment insurance on all its employees, including public safety officers. Normally, in this type of situation,

there is no extra load set since the more normal risks offset higher mortality

associated with public safety officers.

It should be noted that the above comments essentially pertain to the initial rates charged for new Group policyholders. Most medium to large size Group policyholders are experience-rated. Any premiums not necessary to offset charges made for actual claims, expenses and a modest assessment for risk or profit, are returned to the benefit of the policyholder. It would appear that any Federal program would be handled on a similar basis. Thus, the cost of a Group insurance program on public safety officers would be essentially claims plus expenses and profit whether or not there is a Federal program or the individual cities or counties choose to purchase this Group insurance independently. Pertinent to this point, in our opinion the claim costs for this group assuming a normal age distribution would be \$.65 per \$1,000 per month for Group Term Life insurance and \$.08-\$.09 per \$1,000 per month for Group Accidental Death & Dismemberment. Contingent on the size of the administrative requirements, premium taxes, the insurance carriers expenses and profits might add another 4-8% to the total cost of a Federal program.

4. PREFERENCE BETWEEN STATE-FEDERAL PROGRAM OF S-2994 AND DIRECT FEDERAL PROGRAM OF FEDERAL SUBSIDY PROGRAM OF S-2995;

The prospect in S-2995 of one million public safety employees having their contributions to premiums deducted by employers monthly and forwarded to Washington seems to promise large administrative burdens, possible premium delays and a much greater probability of error.

We believe S-2994 is preferable because of the anticipated simplified adminis-

tration of a state versus Federal program.

S-2995 with its provision for a larger Federal subsidy would probably prompt most local groups to abandon their existing plan in order to receive more Federal dollars under a new plan. We do not feel this is in the best interest of the public since we doubt very much whether the large Federal program as proposed would, in fact, reduce the cost of providing this coverage. In the absence of this we see no public interest justification for the larger Federal subsidy.

5. POSSIBLE LONG TERM DANGER TO THE INDEPENDENTS OF LOCAL POLICE FORCES:

It is not within the professional competence of an insurance company to answer this question, but one can't help but be mindful of your recent quoting of Senator Sam J. Ervin, Jr.: "Whose soup I sup, his song I sing."

6. WHICH PROGRAM IS MORE ATTRACTIVE

S-2994.

7. COMPARATIVE COST OF COVERAGE UNDER ALTERNATIVE APPROACHES:

Without knowing the administrative mechanisms involved, any answer has to be speculative. I feel, however, that the administrative simplicities in Bill S-2994 will more than compensate for the large volume generated by the approach

outlined under S-2995.

While we prefer Bill S-2994, there is some question in our minds whether or not either Bill is the desired approach to the problem. We feel that legislation in this area can serve an advantageous purpose. It is an unfortunate fact of life that our local governments, particularly the larger municipalities, are in a severe financial crisis. The ability of these local organizations to readily purchase Group life insurance at reasonable rates is of little avail if they do not have the financial wherewithal to make such purchases. Legislation that would provide a Federal financial subsidy to local governmental units that purchase Group Life and Death and Dismemberment benefits for their public safety officers subject to certain specified minimum standards could serve a legitimate and important need. The requirement that these benefits be provided through a separate Federal or State program seems to be an unnecessary administrative encumbrance. In contrast to the proposed Bills, moneys spent as a direct subsidy would be almost completely utilized to the direct benefit of the city and/or their public safety officers with only minimal amounts required for overall administration.

We wish to thank you for giving us the opportunity to express our views on the proposed legislation and we hope that some of our thoughts have been helpful.

Sincerely,

KENNETH S. BARBER.

Secretary.

METROPOLITAN LIFE, New York, N.Y., February 29, 1972.

Hon. Senator John L. McClellan, U.S. Senate, Washington, D.C.

DEAR SENATOR McClellan: This is in reply to your letter of January 7, 1972

regarding Title II of the "Victims of Crime Act of 1972" (S. 2994).

Our comments are based on the illustrative questions on page 3 of the memorandum which was attached to that letter and are made from a group insurance viewpoint, i.e., disregarding any comments which might be applicable from an

individual insurance viewpoint.

A number of states and municipalities provide group life and accidental death and dismemberment insurance plans for their employees and these plans usually cover public safety officers who are regularly employed by these governmental units. In addition, the various associations of public safety officers, e.g., patrolmen's benevolent associations, also make group life and accidental death and dismemberment insurance coverage available to their members. There is, however, a lack of uniformity among these plans as to the level of benefits offered, the availability of accidental death and dismemberment coverage, etc. This is also true of the contribution the individual must make toward the cost of the insurance coverage. This contribution can range from none to the full cost of the coverage depending on the particular group.

While the premiums charged for a typical group insurance case are based on an averaging of the risk among those covered, possibly varying by age group, there is evidence that the mortality among public safety officers is higher than that of most other government employees or that of employees in nonhazardous

occupations in private industry.

A study of the mortality among law enforcement officers conducted by Metropolitan a few years ago included a review of the available statistics from the U.S. Department of Health, Education and Welfare, the Federal Bureau of Investigation, the New York City Police Department, the Society of Actuaries and municipal groups insured by Metropolitan which included coverage on law enforcement officers. This study confirmed this higher mortality on law enforcement officers. It is likely that this higher mortality also exists to some extent

among the other public safety officers defined in S. 2994.

The preference for either the two-stage approach of S. 2994 or the direct Federal program of S. 2995 would depend on several factors. The success of any group insurance program depends on an enrollment of lives which reflects a distribution of risk such that costs will be reasonably low and will not tend to fluctuate widely. This, in turn, means that under a contributory plan, such as that contemplated by Title II, there be a satisfactory enrollment so that the proper distribution of risk referred to above is obtained. Another factor is the amount of administrative detail that the state or unit of local government is willing to perform without cost to the Title II program. This would include, among others, such things as: (1) initial enrollment of individual officers: (2) arrangements for and processing of any required payroll deductions: (3) handling of termination of coverage for officers no longer eligible and enrollment of new entrants after the program is in effect: (4) maintenance of records to verify changes in level of benefits as salary changes occur; and (5) providing claim forms and doing the initial processing on claims.

The danger of loss of independence of local police forces because of the subsidies provided for a group insurance program such as that contemplated by

Title II would seem to us to be minimal.

As indicated above the cost of the insurance coverages under a program such as that proposed under Title II will vary with a number of factors. However, based on Metropolitan's study mentioned above, a rough estimate of the annual claim cost per \$1,000 of insurance (excluding any expense charges) for such a program, assuming that about 75 percent of the eligible officers participate, would be as follows:

Estimated Annual Claim Cost per \$1,000 of Life and Accidental Death and Dismemberment Insurance

Under 35_____ \$3.50 45–54 ______ 20.00

From a group insurance viewpoint it would be desirable to include all of the separate categories of public safety officers in the same program rather than have separate programs for each category and as indicated above, it would be important to obtain the maximum participation possible whether the S. 2994 or S. 2995 approach were used.

On the basis of the participation of insurance companies under both the FEGLI and SEGLI programs, it is likely a large number of insurance companies would be eligible and would be prepared to participate in a program such as Title II.

The drafting of policy and certificate forms will depend to a large extent on the joint cooperative efforts of the primary insurance carrier for the program and the government agency which is chosen to administer it. We have no suggestions at this time as to changes in the proposed bills which would simplify the preparation of the required contractual forms.

Sincerely yours

WILLIAM S. THOMAS.

THE LINCOLN NATIONAL LIFE INSURANCE CO., Fort Wayne, Ind., February 28, 1972.

Re: Title II of S. 2994, the "Victims of Crime Act of 1972"

Senator John L. McClellan.

U.S. Schate, Committee on the Judiciary, Subcommittee on Criminal Laws and Procedures, Washington, D.C.

DEAR SENATOR McClellan: We are pleased to be given the opportunity of commenting on various points relating to the "Victims of Crime Act of 1972", S. 2994, Title II which would establish a Federal-State group life and dismemberment program for State and local public safety officers. Our comments reflect our opinions and should not be interpreted to be the position of the insurance industry as a whole. Our comments on the illustrative questions on page three are based on our past experience in the group life field and our general knowledge of group insurance plans.

1. Most group writing companies would write group life and death and dismemberment programs on public safety officers through group insurance plans

written through their employers.

2. In typical group programs the employer contributes at least 50% of the cost while the insured individuals contribute the balance. Most companies require that the employer contribute a substantial portion of the cost rather than having

the insured individuals pay most of the cost.

- 3. Under your proposal the costs to the insured employee should be higher than the costs to other insureds. The bulk of the costs are to be paid by the insured public safety officers while in most group plans a high percentage of the costs are paid by the employers. While public safety officers should not have difficulty obtaining adequate life insurance or death and dismemberment coverage, they may have to pay higher rates due to their additional occupational risks. Their occupation is more hazardous than a typical office worker in government service. There is not a reluctance of companies to write such insurance due to the level of their salaries.
 - 4. No comment.

 - 5. No comment.6. No comment.
- 7. It is difficult to estimate the cost per thousand dollars of insurance coverage unless the ages of the insured persons are known. With the individuals paying a high percentage of the premium if the same premium is charged to all insureds the younger members would tend not to enroll and the plan would be more attractive to the older employees. To obtain an enrollment with a good cross section of ages, contributions should be made by the insured individual in age brackets. For example, those between the ages of 60 and 65 would pay substantially more per \$1,000 than those between the ages of 25 and 30.

8. No comment.

9. We do not feel qualified to answer this question.

10. We would recommend that all categories be combined.

11. No comment.

12. The proposed programs appear to be feasible and actuarially sound provided sufficient participation in the program is achieved. We are not sure what degree of participation would be achieved if the employee contributions are 65% to 75% of the cost. In order to be sound with a minimum of selection against the program, at least 75% of the eligible employees should participate and at least 75% of each occupational category (i.e. the most hazardous as well as least hazardous) should participate. Contributions should be graded by age brackets so that the younger employees are not required to subsidize the cost for the older employees.

The program seems feasible since there are other government sponsored group

life plans where the insurance companies participate.

We hope these comments will be helpful to you and your staff in evaluating these bills.

Sincerely.

ALLEN C. STEERE, Senior Vice President.

AMERICAN NATIONAL INSURANCE Co., Galveston, Tex., February 29, 1972.

Re Victims of Crime Act of 1972.

Hon. JOHN L. McClellan.

Chairman, Subcommittee on Criminal Laws and Procedures,

U.S. Senate, Washington, D.C.

DEAR SIR: Thank you for your letter of January 7th on the above subject. While American National Insurance Company is one of the larger life insurance companies, we are not large in the group life business, since our group life is less than 1% of the total amount of group life insurance which all life insurance companies have in effect in the United States. While I would like to be as helpful as I can, I feel that any information I could give you would probably duplicate that available to you from the larger group writing companies.

I would expect that group life insurance, and group accidental death and dismemberment insurance, would be generally available from private insurance companies to cover "public safety officers" as defined by S. 2994. Premium rates would, of course, be based on the risk involved as well as the size of the group life coverage provided under a single policy. Since a "public safety officer" is subject to a greater risk of accidental death than most employees in "non-hazardous industry" on which group life and group accidental death and dismemberment rates are based, I would expect the premium rate to be higher than for the employee in the

non-hazardous industry, at least for most life insurance companies.

If the dangers to the independence of local police forces can be adequately guarded against, I believe the most economical method of providing the desired insurance would be through a FEGLI-SGLI type group insurance policy with one primary insurer and the necessary reinsurers. As I mentioned above, we do not have the necessary volume of group insurance to qualify as a primary insurer, we do not operate in New York State, and we would not be prepared to act as the primary insurer anyway. However, we participate in both the FEGLI and SGLI programs as a reinsurer and as a company in which converted policies can be written. I anticipate that we would be prepared to do the same with this program if it is set up on a similar basis.

If I can be of any further help, please let me know.

Very truly yours,

CLAYTON L. JACKSON.

UNITED OF OMAHA, Omaha, Nebr., February 22, 1972.

Victims of Crime Act of 1972 (S. 2994)

Hon, John L. McClellan.

U.S. Scnate, Committee on the Judiciary, Subcommittee on Criminal Laws and Procedures, Washington, D.C.

Dear Senator McClellan: This is a response to your letter of January 7, 1972, in regard to the Illustrative Questions contained on Page 3 of your inquiry.

1. The United Benefit Life Insurance Company cannot answer this particular question for the insurance industry; however we have always made death and dismemberment programs available for public safety officers. During the past fifteen years, we have provided life insurance benefits for the Ohio State Penitentiary and the Ohio State Reformatory. We have many municipal and State employee programs insured which include public safety officers, such as the State of Michigan and the State of Vermont. The amount of coverage in these cases is dictated by the policyholder and is usually patterned to the money available and no special limitations are imposed by our Company.

2. The amount of contribution by the policyholder and by the individual will vary on each special case. Normally the master policyholder (the employer) will

provide from 25% to 100% of the total cost.

3. When providing group life insurance, the United Benefit Life Insurance Company does not include an additional load in the rate to provide coverage for public safety officers. The rate charged is based on the actual census data of the employer.

With regard to accidental death and dismemberment benefits, additional loadings are required of 100% to 200% above other government employees engaged

in nonhazardous occupations.

4. The United Benefit feels that the 2-stage State or Federal program envisioned by Title II of S. 2994 would be more feasible. This program would encourage the State to provide an adequate program and at the same time give them control of the program.

5. We have no view on this particular question as it does not relate to the

insurance risk involved.

6. Although Legislative Bill S. 2995 would undoubtedly result in a greater participation in the national program, we feel that either plan will develop a sufficient spread of risk. We do not see any difference in the administration under

either of the programs.

7. It is extremely difficult to accurately estimate the cost per \$1,000 of life insurance on a case of this size. Assuming an average age of 40, we would estimate the rate to be approximately 35ϕ per \$1,000 of group life insurance per month. The premium rate for accidental death and dismemberment coverage would approximate 10ϕ per \$1,000 of coverage per month.

8. It is our estimation that both programs are similar in terms of administra-

tion.

9. We can only speak for the United Benefit Life Insurance Company in that we are equipped to handle either proposal. United of Omaha ranks among the 16 largest stock life companies when measured by both assets and insurance in force. The majority of the stock of United Benefit is owned by the parent company, Mutual of Omaha Insurance Company; therefore, there are two large companies having an excess of \$1 billion of assets backing any coverage issued. United Benefit is licensed in 49 states, the District of Columbia, Canada, and a number of foreign countries. United Benefit is not licensed in the State of New York; however, our affiliate, Companion Life Insurance Company, is licensed to handle business in that state.

10. We can foresee no problm in including all the public safety officers under the same program; however, we feel it would be advisable to set up the administration by type of officer and location so that it would be possible to develop

pertinent statistical information for future rating purposes.

11. It is our opinion that as far as the insurance contract is concerned neither proposal would have to be improved to simplify the writing of such a contract.

12. We are somewhat concerned about the Title III \$50,000 death benefit in line of duty. The availability of this coverage may lead certain individuals to believe that they do not need Title II life insurance. Naturally, this is a detrimental attitude in view of the fact that Title II provides coverage for natural death, as well as accidental death, for all causes. We feel that it would be in the best interest of the insured member to provide a special occupational death benefit as part of the Title II plan. This could be provided as an additional flat benefit or could be considered on a triple indemnity basis.

We sincerely hope that our remarks in regard to this Act will be helpful.

Yours sincerely,

A. W. RANDALL, Executive Vice President.

SOUTHWESTERN LIFE, Dallas, Tex., February 25, 1972.

Hon. John L. McClellan, U.S. Senate, Washington, D.C.

DEAR SENATOR McClellan: It is a privilege to be given the opportunity to

comment upon the "Victims of Crime Act of 1972" (S. 2994).

The basic reason that there are inadequate programs of Group Life and Accidental Death and Dismemberment seems to be inadequate provision by local government for such programs. The programs which Southwestern Life underwrites are written with the full cost of the program paid by the "public safety officers" and arranged through a fraternal organization.

In response to the "Illustrative Questions" posed in your letter, we have the

following comments:

(1) Southwestern will generally offer insurance of the types contemplated by S. 2994 to groups of ten or more lives. This is probably true of most other insurance carriers as well. For smaller groups of persons the cost of the program is higher, of course:

(2) A great many programs are established by fraternal organizations with the full cost paid by the membership. Political subdivisions generally do not provide separate programs that recognize the special needs of "public safety officers."

(3) The costs incurred by "public safety officers" would be higher than those of persons in private employment and the benefits available would generally be lower. This I attribute to the "weakness" of employee benefit programs for persons employed by local government, both as to the portion of the cost paid by the employee and the level of benefits as compared to "profit making" employers. In addition to the higher cost associated with lower levels of employer contribution, there would be higher costs associated with the extra mortality hazard

(4) We feel it to be desirable for the law to provide the maximum of local

autonomy. Therefore, S. 2994 would be preferable;

(5) It is impossible to avoid some conflict with local control when there is a federal program with federal money. A good example is the pressure brought to bear on School Districts or under the Aid to Dependent Children program to comply with fiat established by agencies in Washington or lose Federal funds. It would be easy for such pressure to exist under S. 2994 or S. 2995 as well. This could lead to some "Federalization" of police procedures to keep the Federal money:

(6) Financially there appears to be a little difference between the two proposals. A higher level of enrollment should result from the higher contribution by the government under S. 2995. This is largely a "philosophical" matter;

(7) Due to the wide disparity of ages among the various categories of "public safety officers" and the concentration of line of duty deaths in larger cities, we have no data that would provide realistic estimates of cost;

(8) There should be no more than one "collection point:" for each separate

program:

(9) Under the proposed legislation only 11 companies would be eligible. This results from the conditions that are both arbitrary and unreasonable. The first condition is that a company do business in all states. Many major companies do not conduct business in all states. The state most often excluded is New York, which assumes extra-territorial powers that inhibit freedom of competition. The second is the requirement that a company have at least 1 per cent of the group life written in-force. This requirement would eliminate many large and healthy companies including Southwestern with over \$1,000,000,000 in assets.

(10) Because of age differences and differences in job hazard there should be

separate programs.

We would like to make the following general observations:

(1) There is an extra hazard associated with a program for "public safety officers". It is only this hazard that needs to be covered by federal legislation. Yet, there does not appear to be provision for this in either S. 2994 or S. 2995.

(2) The only table of rates that can be used in accordance with the criteria established is that promulgated by the Insurance Department of New York. Many companies would be prepared to write local programs at lower rates than the New York minimum rates;

(3) There needs to be provision for financial assistance to existing programs, provided they meet some prescribed standards. Otherwise, these programs might be abandoned and retired participants left without coverage;

We hope these observations are helpful to you.

Sincerely.

JOHN J. VOGEL, Chief Underwriter.

THE EQUITABLE LIFE ASSURANCE SOCIETY

OF THE UNITED STATES,

New York, N.Y., February 11, 1972.

Mr. G. ROBERT BLAKEY, Chief Counsel, New Senate Office Building, Washington, D.C.

DEAR MR. BLAKEY: This is in connection with the discussion Mr. Robert Shalen, Mr. Richard Congleton and I had with your Committee members last Thursday,

February 3, concerning proposed Senate Bills 2994 and 2995.

We are attaching our comments confirming the major points of our discussion. As indicated in our comments, there are many policy provisions that will require further review and clarification. As mentioned by you in our meeting, you will desire the assistance of experienced insurance personnel in drafting proposed language for any further legislation. In our role of providing public support, we are pleased to offer our full service to you and your Committee in the formulation of any such program.

We enjoyed the opportunity of visiting with you and look forward to further meetings after you have had the opportunity of reviewing our comments. I plan

to keep in contact and will call you within the next two weeks.

Sincerely yours,

LAWRENCE E. SENFT, Account Vice President.

Suggestions in Response to Senator McClellan's Letter of January 7 re: S. 2994 and S. 2995

1. Senator McClellan's (S. 2994) approach should prove generally more satisfactory than Senator Kennedy's (S. 2995). This is because the 75% federal subsidy should produce a very high rate of participation among Public Service Officers throughout the country, whereas the smaller subsidy of S. 2995 would not work out well in states which do not choose to contribute their own funds to the plan.

2. We believe that under S. 2994 the federal plan will ultimately be replaced almost entirely by local plans, because of the strong incentive to take advantage

of the 75% federal subsidy.

3. As you have observed, removing PSO's from existing group life insurance plans could have a negative effect on the premium rates applicable to the remaining members of these plans. For instance, in states like New York, which have more generous retirement plans for policemen and firemen than for other state and municipal employees, the effect could be to raise these rates. However, existing programs which now receive financial support from local governments should be able to receive additional support as these governments are relieved of their PSO costs thru the 75% federal subsidy.

4. S. 2995 permits each unit of PSO's to keep its existing insurance, whereas S. 2994 does not permit this except in the hypothetical situation where the plan is a statewide plan for PSO's only. It would seem logical to permit existing non-statewide plans to reflect local preferences in such matters as the level of benefits provided and the amount of contribution required from PSO's, and we would therefore suggest that S. 2994 provide subsidies to plans covering the PSO's of any state or county, or of any municipality or group of municipalities having 500

or more PSO's.

5. When a national plan operates side-by-side with local plans, each local unit can be expected to select that plan which gives it the lower cost. In order to control the impact of this anti-selection, perhaps premiums payable to the national pool by each state or local government unit should be based on the age distribution of the unit's own members.

6. Under S. 2994 consideration should be given to limiting the subsidy for a local plan to 75% of actual cost or, if less, 75% of what it would have cost to

insure the plan's members in the natoinal pool. In the absence of such a provision a local unit could be subsidized for an unlimited amount of group life insurance.

It seems to us that this type of control is preferable to specifying in detail

a maximum level of benefits that may be provided by the local plan.

7. We would suggest that you consider eliminating the AD&D benefit from the national plan. Title III provides a substantial indemnification for accidental death in line of duty, and the social need for insuring against other types of accidents is not clear. A survivor needs just as much money, and possibly more, when the employee's death results from sickness as when it results from an accident.

8. With regard to your suggestion that each PSO be given tax deductibility for his contributions to the insurance plan in lieu of a federal subsidy, we would certainly like to see this. In many parts of the world employees receive such tax deductibility for their insurance premiums, including their contributions to pension and other benefit plans purchased by their employers. The deduction is usually subject to a maximum annual amount per individual and for pension plans may be limited to plans which meet certain standards. Such deductibility is given in most Western European countries, including the U. K., Germany, France, Belgium, Italy, Holland and Switzerland. We will be glad to furnish details for any of these countries if you wish.

9. In addition to the foregoing, we would suggest:

a. That if AD&D is retained in the bill, no conversion privileges attach to this coverage, and that a statement be included which will permit the usual AD&D exclusion provisions, such as for self-inflicted injury, act of war, etc.;

b. That full-time PSO's be defined in such a way that volunteer firemen do not

qualify for benefits;

c. That the provision for terminating insurance when pay is terminated be eliminated, to avoid cancelling insurance of a suspended PSO who has not had an opportunity to contest the suspension; and

d. That you consider whether benefits ought to comply with state insurance laws which govern such matters as maximum amount of insurance per life and 75% minimum participation of employees in the plan.

Certain routine policy provisions are not specified in the bill, e.g., a provision that insurance will terminate if premiums are not paid. Rather than attempt to specify these provisions, we would suggest a provision authorizing the Administration to approve for inclusion in the federal contract any provision deemed

necessary for efficient operation of the plan.

10. Group life insurance premium rates for PSO's now insured by Equitable range from as little as 28 cents to as much as 61 cents monthly per thousand, depending primarily on the average age of the eligible PSO's. Standard group life premium rates are generally used with an extra rating for the AD&D benefit because of the greater accident hazard, for PSO's than for the general population. Net cost of insurance for PSO's, as for any group, depends on actual claims incurred, with the difference between anticipated and actual claims and expenses being refunded in the form of dividends.

THE TRAVELERS INSURANCE Co., Hartford, Conn., February 11, 1972.

Mr. G. Robert Blakely, Chief Counsel, U.S. Senate, Committee on the Judiciary, Room 2204, New Senate Office Building, Washington, D.C.

"VICTIMS OF CRIME ACT OF 1972"

Dear Bob: The attached Exhibit F contains a brief summary of the Group Life Insurance Plans available to State Employees. Since the data was prepared from information assembled over a period of several years, it may not always project the current status; however, we trust that it will be sufficient for your purposes.

You may recall that this report was mentioned in my January 27 letter to Senator McClellan and we believe that you have now received a response to all of the items which have been discussed. We are hopeful that you will call upon us again for assistance in connection with this worthy project.

Sincerely,

George W. Cheney, Jr., Second Vice President.

Exhibit F

GROUP LIFE INSURANCE PLANS AVAILABLE TO STATE EMPLOYEES

Alabama.—Alabama does not have a state sponsored plan of Group Life Insurance, but a number of employees of individual agencies have established voluntary group insurance plans. In addition the Alabama State Employees Association provides a plan with amounts from \$2,000 to \$10.000 depending upon salary brackets.

Alaska.—Group Life Insurance is equal to the employees annual salary rounded to the next highest \$1,000. The State does not contribute toward the life insurance premiums but the cost is figured on a group basis and affords costs such as these, i.e., under age 30, \$.20 per \$1,000, ages 30 through 34 \$.23 per \$1,000, etc. At age 65 the life insurance reduces to \$2,000.

California.—No Group Life Insurance.

Colorado.—Group Life Insurance benefit is based upon age with a maximum amount of \$25,000 and a minimum of \$1,000. In addition a Supplemental life insur-

ance plan provides Paid-up amounts after 5 years of service.

Connecticut.—Group Life Insurance is provided to active full time employees in a range of from \$4,000 to \$19,000 based on salary. Retired people have a paid-up policy of not less than \$3,000 nor more than \$5,000. The rate for active full time employees is ten cents (\$.10) per week per thousand, with anything additional paid for by the State.

Delaware.—Group Life Insurance benefit is equal to 100% of annual salary or

wage up to \$20,000 maximum.

Florida.—The Group Life Insurance benefit is based upon age and salary. The maximum is 200% of salary and the minimum is 50% of salary. Incidentally,

Peace Officers must be insured for \$5,000.

Georgia.—The State's Group Term Life Insurance program is administered by the Employee's Retirement System with the employee and employer each contributing one-half $(\frac{1}{2})$ of one percent $(\frac{1}{6})$ of the employee's earnable compensation on the monthly employee payroll.

Hawaii.—No Group Life Insurance.

Idaho.—The State of Idaho provides a special program of Group Life and Accidental Death and Dismemberment Benefits at full cost to the State.

Illinois.—The Group Life Insurance Plan includes Basic coverage at 50% of salary plus an additional 50% under a Supplemental Plan.

Indiana.—No Group Life Insurance.

Iowa.—No Group Life Insurance.

Kansas.—Group Life Insurance is equal to 50% of the highest compensation on any one of the previous 5 years.

Kentucky.—No Group Life Insurance.

Louisiana.—The Group Life Insurance Plan includes a \$2,000 basic benefit plus a supplemental amount equal to 150% of annual salary with a \$40,000 total maximum.

Maine.—A Group Life Insurance Plan is provided although we do not have any information on the benefit amount.

Maryland.—No Group Life Insurance.

Massachusetts.--No information available.

Michigan.—An employee of the State of Michigan has Group Life Insurance in an amount from \$3,000 to \$10,000 based upon his civil service class. The State of Michigan contributes 75% toward the cost of the employee life insurance program.

Minnesota.—A Group Life program is provided and the State contributes to

the cost.

Mississippi.—Each State agency may purchase Group Life Insurance for its employees and the State will participate in premiums up to twenty percent (20%) for normal benefits.

Missouri.—No Group Life Insurance. Montana.—No Group Life Insurance.

Nebraska.—Each agency or department may establish and participate in a Group Life Insurance Plan for its employees. The decision whether or not to establish and participate in any plan is at the discretion of each department or agency head. Agencies establishing such plans may contribute, in whole or part, to the cost thereof.

Nevada.—The State plan of Group Life Insurance incorporates the employees of the State, counties, cities if they so desire. The State's contribution is \$3.00 per month per employee toward the premiums.

New Hampshire.—The Group Life plan includes non-contributory term insur-

ance plus permanent life insurance on a contributory basis.

New Jersey.—This State has a compulsory contributory and non-contributory plan of Group Life insurance. The State pays 100% of the non-contributory and the employee pays one percent (1%) of salary for contributory insurance. The Life Insurance portion of the plan is combined with the retirement system and any employee of the retirement system is covered with a life insurance benefit.

New Mexico.—The employees of the State of New Mexico are offered two plans of life from which to choose. Both plans are voluntary and the State pays 20% of the premium cost for the employee only. Both plans include Group Life in-

surance ranging in amounts from \$2,500 to \$5,000 based on salary.

New York.—The Civil Service Employees Association sponsors an optional Group Life insurance program with the employee paying all the premiums. The amounts are based upon salary subject to a maximum of \$12,500 and a minimum of \$1,500.

North Carolina.—No Group Life Insurance. North Dakota.—No information available.

Ohio .- No Group Life Insurance.

Oklahoma.—Each agency has its own individual plan.

Oregon.-No Group Life Insurance.

Pennsylvania.—Group Life Insurance plan is based upon 100% of annual salary or wage up to a maximum of \$20,000.

Rhode Island .- The Group Life Insurance is equivalent to 100% of annual

salary or wage.

South Carolina.—The State has no Life Insurance plan for State employees but there is a plan sponsored by the South Carolina State Employees' Association on an employee-pay-all basis.

South Dakota.—No information available.

Tennessee.—The Group Life Plan offered to employees of the State of Tennessee is paid for half by the State and half by the employee on a payroll deduction. Life insurance amounts for employees range from \$2,000 to \$10,000 based on salary.

Texas.—State employees are covered by a voluntary group insurance program, organized and supported by the Texas Public Employees Association and in some

cases by individual State departments.

Utah.—The Life Insurance Plan provides \$7,000 per employee. Each employee

pays \$1.50 per month and the State matches this amount.

Vermont.—The State plan of Group Life Insurance entitles each eligible employee to \$3,000 for \$1.20 per month. The State pays the entire balance of the cost. Virginia.—No information available.

Washington.—No Group Life Insurance. West Virginia.—No Group Life Insurance.

Wisconsin.—The State of Wisconsin includes all eligible employees in a program of Group Life automatically if the employee does not file a waiver to the effect that he does not want to be covered under the plans. Each employee pays \$0.40 per thousand and the State pays the remaining premium on the life insurance.

Wyoming.—No Group Life Insurance.

THE BANKERS LIFE, Des Moines, Iowa, January 28, 1972.

Re Victims of Crime Act of 1972. Titles II of S. 2994 and S. 2995.

Attention: Hon. John L. McClellan.

SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURES,

COMMITTEE ON THE JUDICIARY,

U.S. Senate,

Washington, D.C.

Gentlemen: We have reviewed with interest Senator McClellan's and Senator Kennedy's proposals for the establishment of a Group Life and Dismemberment Insurance Program for "public safety officers."

As requested, we submit the following answers to the illustrative questions contained in the memorandum attached to Senator McClellan's January 7, 1972

letter. Please note that our responses are in the same numerical sequence as the questions.

1. The Bankers Life considers public safety officers to be a standard occupational classification for purposes of Life Insurance program design. No discriminative scheduling or benefit limits are applicable. It is our impression that

the majority of leading carriers follow similar practice.

We believe, therefore, that public safety officers are generally afforded the same levels of protection that are available to other occupational groupings. To illustrate, The Bankers Life presently underwrites a group program which covers the firemen and policemen of the City of Des Moines. This program includes a relatively modest death benefit plus medical care insurance. The City plan is supplemented by a State mandated retirement program which provides, in addition to pension benefits, an outstanding package of death and disability coverage. The total death benefits for Des Moines' firemen and policemen compare most favorably, in our opinion, to the levels of employee coverage found in private business and industry.

2. This question can be answered only in conjectural terms because there are

wide variances in contribution levels from one plan to another.

For example, under The Banker's Life program for Des Moines' firemen and policemen, the City pays approximately 90% of total cost for death benefits and the individual insureds are responsible for the remaining 10%. The State mandated plan is also essentially noncontributory with respect to the very substantial death benefits provided thereunder. These contribution proportions may well be atypical. Similar plans may exist where the government units' cost-share is, comparatively speaking, quite low.

With our response thus qualified, we would estimate the typical or average contribution ratio for these programs to be somewhere around 50/50%. This is

almost pure conjecture.

3. The Bankers Life does not generally require any occupational premium rate loading for Life Insurance purchased by public safety officers. This is true wheth-

er the purchase is under a group contract or via an individual policy.

Double indemnity coverage, on the other hand, is usually subject to extra charge. Normally, under either group or individual policies, the double indemnity rate for public safety officers is increased to two times standard. We hasten to add, however, that two times standard is a relatively small extra in terms of dollars—about \$.08 per \$1,000 per month under group contracts. Further, a two times standard loading factor is used for a number of other occupational classifications. For example, general construction employees, carpenters and laborers are also charged a two times standard rate for double indemnity under individual policies. Other classifications, including miners, bartenders and longshoremen are rated much higher or may be rejected altogether for this coverage.

In reply to question number one above, we expressed the opinion that Life Insurance programs for public safety officers were not subject to discriminative scheduling or benefit limits. This, coupled with the above rating information, leads us to conclude that public safety officers should generally have no difficulty

in obtaining needed insurance protection.

4. We have no strong preference towards either proposal. However, it is our opinion that smaller administrative units would be advantageous from the

standpoints of efficiency and quality of service to the insureds.

5. Our answer to question number four indicates that, all things being equal, we would favor basing control of the proposed program at the lowest possible administrative levels. This is not intended as implied comment with respect to any possible loss of independence by local police forces as a result of direct Federal salary-type supplements. We are really in no position to judge such a point.

6. The answer to question number four applies here also. The number of pos-

sible participants does not alter our opinion.

7. There would be certain economies in the operation of a single program at the Federal level as opposed to a multiple plan approach at the State or local level. On the other hand, a single program would most probably require reinsurance arrangements similar to those now employed under the various Federal employee benefit plans. In this event, the expenses particular to reinsurance arrangements would act as a partial offset against cost savings realized elsewhere. With the above in mind, we estimate the premium charge per thousand dollars of death and dismemberment coverage under a direct Federal program would

be in the area of \$.47 to \$.50 per month. This estimate assumes one million persons insured for \$11,000 each and an average age of 44 years per participant.

The premium charges under a multiple plan approach would vary from unit to unit depending on the census data factors applicable to each. However, the average of these charges, based on the same enrollment assumptions listed above, would probably be slightly higher than the \$.47 to \$.50 estimated for the direct Federal program.

8. The answer to question number four applies here also. We believe that administration at the lowest levels possible would best serve the interests of the

insureds.

9. Only a very limited number of insurance companies are capable of handling a single program of this magnitude and these few would undoubtedly find reinsurance arrangements necessary.

A great many companies could be considered qualified carriers under the mul-

tiple plan approach.

10. We see no particular advantage to be gained by establishing separate programs for each category of public safety officer.

11. We have no constructive comment to offer.

12. The benefit schedule presented in Titles II of S. 2994 and S. 2995, considered alone, is sound as to the amounts of coverage to be provided. However, it should be remembered that this benefit schedule will, in a great many instances, supplement existing programs. The end result could be very substantial individual coverage.

If, for example, the Iowa mandated retirement program is at all reflective of plans in other states, then the net of death benefits after addition of the proposed schedule will certainly place public safety officers among the most highly

insured groups in our national community.

We do appreciate the opportunity to present our viewpoints regarding the proposed insurance program. If we can be of any further service in this matter, please let us know.

Sincerely,

D. L. Krieg, Vice President.

THE TRAVELERS INSURANCE Co., GROUP DEPARTMENT, Hartford, Conn., January 27, 1972.

("Victims of Crime Act of 1972") Hon. John L. McClellan, U.S. Senate, Committee on the Judiciary, Washington, D.C.

DEAR SENATOR McCLELLAN: I am pleased to enclose a number of exhibits which relate to your initial inquiry and subsequent discussions we have had with your Chief Counsel, Mr. G. Robert Blakey.

Exhibit A-Our response to the questions raised in the attachment to your

letter of January 7, 1972.

Exhibit B—Our response to the questions developed as a result of the January 18 meeting, restated in my letter of January 19 to Mr. Blakey.

Exhibit C—Specimen Group Life and Accidental Death & Dismemberment

policy referred to in Exhibit B, question 5.

Exhibit D—Specimen Special Blanket Accident Policy—Volunteer Fire Company referred to in Exhibit B, question 6.

Exhibit E-Listing of some reasons to consider insuring Title III benefits.

We wish to assure you again of our interest in putting resources at our disposal to work for you in developing the insurance aspects of this important legislation, and continuing to offer such additional actuarial and other assistance as your committee may require.

We stand ready to clarify or add further information to the items presented

at this time.

Sincerely,

George W. Cheney, Jr., Second Vice President.

Exhibit A

1. What insurance programs are generally available from private companies in the way of death and dismemberment programs for "public safety officers" as

defined by S2994?

The Travelers Insurance Company makes available a wide spectrum of Group Life and Accidental Death and Dismemberment programs for "public safety officers" in accordance with our standard underwriting practices. Generally such individuals are employed by a municipal, county or state governmental unit and all active employees are eligible to participate in the Group Insurance Plan. Undoubtedly thousands of these programs are currently in effect. As we discussed during our January 18 meeting, in the Group Insurance market such programs are avaliable essentially without restriction as for any other group of employees.

2. In typical programs what costs must be met by those individuals as well as

units of government covered by these programs?

The cost sharing arrangements between the governmental unit and the "public safety officer" are usually specified in the enabling legislation or may result from union collective bargaining agreements. It would appear that the current trend is in the direction of substantially non-contributory benefits for the death benefit portion of the plan. If employee contributions are required, the typical deduction is \$.50 monthly per \$1000.

3. How do these insurance costs compare to those incurred by employees other than public safety officers in government and private employment in occupations

at the same income levels?

Public Safety Officers mortality is estimated to be one-third higher than the mortality of other active employees both for reasons of the occupation and possibly due to an element of health hazard. This would translate into approximately two extra deaths per 1000 employees per year. On this basis the additional cost would be about 20 cents per month per \$1000 of life insurance higher than for a typical group with identical age and sex characteristics.

As to Accidental Death & Dismemberment, the typical cost is \$.05 monthly per \$1000 for a standard group and in the area of \$0.10 monthly per \$1000 for

Public Safety Officers.

(Please include here any information available to you to indicate whether or not Public Safety officers have difficulty obtaining adequate Life insurance because of the reluctance of companies to write such insurance or low salaries, have to pay higher rates than other government emplyoees, are excluded from double indemnity coverage, etc.)

As stated above in item 1, we are not aware of any underwriting practices being followed in the industry which would preclude Public Safety Officers from attaining adequate Group Insurance coverage.

4. From an insurance perspective, which would you prefer, the two-stage State or Federal program envisioned by Title II of S2994 or a direct Federal program or Federal subsidy of an existing state or local program as suggested by Title II of

This is an area which we discussed in detail at the meeting in Washington, As you know, generally group insurance administrative costs decrease when measured as a percentage of premium as the size of the group increases. For this reason it can be assumed that the administrative costs of the insurer under a single program would be less than the total of the administrative costs with respect to a number of programs. However, it is also true that upon attainment of a certain size, for example, where premium exceeds \$3 or more million, most of the

economies of size have been realized.

In this respect, during our discussion it was indicated that the state agency involved in the administration of federal law enforcement aid funds from the Law Enforcement Assistance Administration would be looked upon to gather together contributions and perform other administrative and record-keeping functions under either a single federal program, separate state programs, or a combination of the two, taking into consideration existing plans. If the state agency is likely to be involved in the administration of an insurance program under any circumstances, it would be possible for state programs to exist tied together into an overall program. On this basis, the overall insurance costs should not differ substantially between approaches. If separate state programs were to exist independent of each other, depending upon the size of the various programs insurance administration costs would increase, as we discussed.

5. Do you see any long-term danger to the independence of local police forces from the establishment of direct Federal salary-type supplements?

Without commenting specifically on the long-term political implication of police independence, we would comment that the magnitue of the subsidy, as seen from the above, is relatively small when compared to an officer's total pay package, including health insurance and pensions.

6. Assuming approximately one million public safety officers would be eligible for inclusion in the group nationally, would the program be more attractive to you

under the approach of S2994 or S2995?

As indicated in Item 4 above, there are insurance economies resulting from one overall program, however, state plans could be tied together so as to achieve most of the economies of size which would be associated with one overall program.

7. Can you estimate the cost per thousand dollars of insurance coverage under each of the alternative approaches, assuming the average policy will be for

\$11,000?

We estimate that monthly cost of these benefits under either program would be \$0.80 per \$1000 for Group Life (\$8.80 for \$11,000 and \$.10 per \$1000 for Group Accidental Death & Dismemberment Insurance (\$1.10 for \$11.000). These costs include a small allowance for expense. We will be pleased to refine these estimates when actual age distribution data is available.

This information which is still in the process of being compiled will be

8. Is one alternative more realistic than the other in terms of administration, e.g., number of collection points involved?

Please refer to Items 4 and 6 above.

9. How many insurance companies would be prepared or eligible to handle each of the proposals?

The Travelers Insurance Company would be pleased to be the underwriter on such an important project. Undoubtedly, other major Group Life Insurance underwriters with nation-wide capabilities will be willing to submit a bid.

10. From an insurance perspective, should all of those currently covered by the term "public safety officer" be included in the same program? Or would it be advisable to set up separate programs for each separate category of "public safety officer?"

We would recommend that all eligible Public Safety Officers be insured under

the same program.

11. Can the draftsmanship of either proposal be improved to simplify the sub-

sequent writing of a policy or policies?

We find the benefits descriptions to be quite acceptable for the writing of insurance policies. It would appear that there may be typographical errors in Section 502(c) of S2995, however, in any event, we would prefer the description of accidental death and dismemberment insurance as contained in Section 501(c) of S2994. You have also received elsewhere (Exhibit B) our comments concerning a premium waiver benefit and discontinuance of contributions by a covered person.

It should perhaps be noted here also that if state insurance programs were to be tied together as part of an overall program, some mention of that possibility.

perhaps on a discretionary basis, could be made in the bill.

EXHIBIT B

1. Finalize our study of the various life programs now available to State employees.

This information which is still in the process of being compiled will be

furnished at a later date.

2. Furnish appropriate language to cover insurance termination upon discon-

tinuance of contribution by the insured individual.

Add the following language to Section 501(a) . . . "or unless any such officer does not authorize or otherwise agree to make or continue to make any required contribution for the insurance provided by this part."

3. Supply language for premium waiver during total disability.

Add the following sentence to Section 501 (b) . . . "Group Life insurance shall include provision approved by the Administration for continuance of such life insurance without requirement of premium payment in the event of total disability of a public safety officer covered for such life insurance"

4. Discuss whether there be a Disability payout under one of the titles.

The Group Life Insurance policy forms currently being issued in the industry usually do not contain an installment payment feature for PTD claims. Such a settlement arrangement under Title II would reduce the benefit available to the beneficiary, since it reduces the face amount, and also increases the total cost of the program. Perhaps consideration for a disability payment should be made under Title III which would restrict its application to losses incurred in line of duty. As a safeguard, consideration should be given to a substantial disability qualifying period, a payout period of not less than 5 years, and a restrictive definition of disability.

5. Provide a specimen Life and Acc. Death & Dismemberment policy.

Please refer to Exhibit C

6. Comment on the eligibility of Volunteer Firemen.

While it may be concluded that paid employees of Fire Departments should be included with other Public Safety Officers falling within the purview of Title II as presented by either S2994 or S2995, there is some question as to the validity and practicality of including Volunteer Firemen.

1. In most cases volunteer fire duties are not the principal duties of the individual of such a group, who in all probability is employed elsewhere on a full time basis, and eligible for such insurance as may be available from his

regular employer.

2. There would be no facility for payroll deduction through a typical fire

Company.

3. In most States, legislation has provided specific indemnities and reimbursements for injuries or deaths sustained as the result of Volunteer Fire activity. A sample of an insurance policy designed to provide benefits in accordance with such legislation in a typical state—Illinois (Exhibit D) is attached.

7. Comment on the level of \$50,000 in Title III.

Currently the most prevalent life insurance benefit formulas are related to salary or wage. Usually when a flat amount is provided, the level is generally on a considerably lower scale than the proposed \$50,000. However, if the Title III program were to be interpreted as a Survivor's Benefit (the present value of repetitive income) and \$50,000 amount would not appear inconsistent with the more advanced commercial and industrial employee benefit plans. Many employers do provide substantial additional amounts for accidental deaths or dismemberments which occur while traveling on company business. 8. Offer suggestion regarding possible dovetailing of Titles I, II or III.

Since Title II is not wholly financed by Federal Funds, it would not appear practical to offset this by other benefits. However, if Title III were to be provided on an insured bases, it would be possible to reduce the payments by any amount due under Title II, similar to the Title I offset for Title III.

Exhibit E

FOUR MAJOR REASONS FOR CONSIDERING INSURING TITLE III

(1) Considering the relatively small number of deaths anticipated, i.e., several hundred, it would appear desirable to utilize nationwide claim network of a major insurer capable of investigating and delivering prompt settlements, rather than attempting to establish federal machinery for this purpose.

(2) Major insurers have developed experience over many years in determining claim merit in accidental occupational deaths, in accordance with pro-

visions established for a particular plan or purpose.

(3) Similarly, there may be involved or questionable beneficiary considerations, for example:

1. beneficiary is a minor—letters of guardianship must be secured.

2. beneficiary is incompetent—conservator to be dealt with.

will be useful since Title III makes provision for installment settlements.

3. several people claim to be beneficiaries, i.e., two wives—which one is entitled

to the proceeds? (4) Insurance companies have established procedures for handling repetitive payments under a variety of possible modes of settlement arrangements. This

GENERAL AMERICAN LIFE INSURANCE CO., St. Louis, Mo., January 25, 1972.

Hon. JOHN L. McCLELLAN, U.S. Senate, Committee on the Judiciary, Washington, D.C.

DEAR SIR: We have read with interest your letter of January 7 and the accompanying texts of S. 2994 and S. 2995 with regard to the establishment of insurance programs for public safety officers.

General American has experience in insuring these risks, both individually and as groups. We presently underwrite the police departments of St. Louis and Honolulu among others and many city employee groups, of which police and

fireman are a part, including Houston and Denver. Peculiarities of these occupations do have some effect on the premiums. The prevailing excellent health among those selecting these occupations reduces the deaths due to natural causes, offsetting the increased deaths due to accident. Accordingly the life rates are usually close to standard. On the other hand, the higher frequency of accidental death usually causes some loading to accidental death and dismemberment (ADD) insurance. A check of three other companies as well as our own shows this loading in group insurance to be in the range of 9¢ to 19¢ per month per thousand of coverage over a usual accidental death premium of 6¢ per thousand for group coverage. The individual insurance underwriting department here has informed us that the same considerations apply there and that life rates are not loaded nor are double indemnity rates with the exception of motorcycle patrolmen.

Those groups which we underwrite were obtained after sharp competitive bidding, so we feel we can say that the insurance industry is willing or in fact eager to accept such groups in most instances. In some situations, it is to the group's advantage to combine with all employees of the government unit (usually a municipality) for two important reasons—the group is bigger and the risk of accidental death or dismemberment is diluted by the safer occupations. Such a group is attractive to an insurance company since the larger size means lower per capita administration costs and greater predictability of claims. Besides the premium savings reflected by the administration saving, the diluted accidental deathloading is now about only 3¢ per month per thousand for many such groups.

On the whole, we do not think that such groups would have difficulty in obtaining insurance (unless unusually adverse local conditions prevail or the units are too small to obtain favorable group coverage). The problem of obtaining insurance is probably in most instances largely part of the local jurisdiction's financial situation.

The insurance portion of the "Victims of Crime Act of 1972" (82994) has the advantage of permitting Municipalities to obtain their own favorable arrangements under competitive bidding and permitting the States to form groups of those jurisdictions which do not readily obtain group insurance, by reason of size or unusual risk.

We are cautious about the idea of going all the way to a national group as with S2995, however, because of the following:

(1) The program doesn't allow for differing needs. A benefit amount which is adequate in one geographical area may be inadequate in another.

(2) The program cannot evolve freely. A locale desiring an improved insurance program would be tied to the Federal group and would have to await a national change.

(3) The program doesn't allow for competitive bidding to the financial advantage of the group.

(4) The program precludes effective local recourse for unsatisfactory service

so there would be less incentive for good service by the insurer.

Sincerely,

DEAN E. WILLIAMS.

PRUDENTIAL INSURANCE Co. of AMERICA, Newark, N.J., February 7, 1972.

Hon. JOHN L. McCLELLAN,

Chairman, U.S. Scnate Subcommittee on Criminal Laws and Procedures, Washington, D.C.

DEAR SENATOR McCLELLAN: Enclosed is a memorandum containing our written comments on Title II of S. 2994 and S. 2995, which were requested in your letter of January 7, 1972.

If you need additional information or we can be of further help, please let me know.

Sincerely,

JIM JACOBSON.

MEMORANDUM

FEBRUARY 4, 1972.

Subject: Comments on title II of S. 2994 and S. 2995.

From: Erwin A. Rode.

1. AVAILABILITY OF DEATH AND DISMEMBERMENT INSURANCE PROGRAMS FROM PRIVATE COMPANIES FOR PUBLIC SAFETY OFFICERS

We can comment only on our own experience. The same types of programs are available to state and local governmental bodies as to private businesses. There is considerable choice of plan involved, so that the programs we have in force

reflect the choices of the purchasers.

Under our regular group insurance programs, issued to groups initially insuring at least 35 lives, we have 183 cases inforce insuring state and local governmental employees. In addition, we insure a number of smaller municipalities under group insurance programs designed for groups insuring less than 35 lives. The small group programs issued to municipalities normally cover all classes of employees. Of the 183 regular group programs, 163 cover all classes of employees. Of the remainder, 16 cover fire departments, mostly volunteer, and 4 cover police.

The life and accidental death and dismemberment benefits under most of the plans are modest, generally providing a flat amount ranging from \$2,000 to \$7,000. However, there are a few with higher amounts of insurance and a few

where the amounts are a function of earnings.

A number of plans continue reduced benefits into retirement. Almost all con-

tinue coverage during total disability, if disability occurs prior to age 60.

Our largest case covering police and firemen is issued to the State of New Jersey. In addition to providing coverage on state employees, this case covers municipal employees of those cities and towns that participate in the State retirement plan. Under this plan we have approximately 19,000 local police and firemen insured and 1,600 state police. It provides a life insurance benefit equal to 3½ times salary while active or retired on disability prior to age 55, and ½ times salary after retirement—a very liberal plan.

2. TYPICAL EXISTING PROGRAM COSTS

The initial rates for life insurance depend primarily on the age composition of the group. Attachment A contains a brief description of the minimum group life insurance rates applicable to the first policy year for all insurance companies authorized to do business in New York State. It can be seen from the illustrative age rates shown there that the average rate per \$1,000 of insurance for each case

is quite sensitive to the actual age distribution of the group.

The normal initial rate making procedure is to apply these rates to the exposure by age at time of issue and calculate an average rate per thousand. This rate, after applying additional expense loading and the appropriate size discount (volume reduction) is then multiplied by the total exposure each month to get the monthly premium. (We call the rate before size discount, the manual rate.) A new census is taken and a new average rate is calculated every year or two. Average claim costs for our business as a whole run 55 to 60% of the manual rates. Claim costs as a percentage of payable rates increase with increasing size, reaching 80 to 90% for the very largest cases. The net cost of insurance can be less than the premium costs because of dividends, which reflect actual expense and claim experience. Also, to the extent that a case's claim experience is credible, it is reflected in the rates set for renewal years.

Although studies show that police and firemen do experience somewhat higher mortality than insured lives on the average, most of our cases covering police and firemen have been written without any specific occupational loading for life insurance. None of the programs for less than 35 lives cases have loading. About a quarter of the larger cases do have loading spread over the entire case. It is usually \$.085 per \$1,000, although occasionally \$.17.

This loading is small when compared to the variation in average rate per \$1,000 from case to case caused by differing age distributions. We have cases covering public safety officers with an average rate lower than \$.50 and some

with a rate over \$2.00.

Accidental Death and Dismemberment premium rates do not vary by age. The standard manual rate is \$.06 per month per \$1,000. All of the small cases and about 75% of the regular group cases insuring public safety officers do not have an Accidental Death and Dismemberment rate loading. The most common load-

ing for those that have one is \$.03 per \$1,000.

The vast majority of our government employee cases are non-contributory, (all costs are borne by the employer). The New Jersey State case, with a benefit equal to 31% times earnings, is non-contributory. Those cases that are contributory generally call for a flat employee contribution rate per \$1,000, such as \$.30, which is independent of the age of the insured and the average premium rate on the case. Where all municipal employees are covered, no distinction is made in the contribution rate by class of employee. We have several cases, however, that are issued to associations of public safety officers, where the full cost is borne by the insureds.

As far as we know, anticipated higher claim costs for policemen and firemen have not resulted in limitations on the adequacy or the extent of coverage. Most municipalities desire a common plan for all employees. In some states it may be required. In general, we think the police and firemen are sufficiently younger than other municipal employees so their average cost per \$1,000 of insurance would be lower than that of the other employees, even though their mortality might be higher age by age. The life and accidental death and dismemberment amounts provided are generally modest because the municipalities and their employees tend to be more interested in putting their available funds into health benefits than into death benefis. We, of course, would like to sell higher death benefit amounts.

3. PROBABLE COST OF THE PROPOSED PLAN

The most important factor affecting the cost under either S 2944 or S 2995 would be the age distribution of the covered lives. Most of our programs cover all municipal employees so that separate figures for the public safety officers are not available. However, on the State of New Jersey case, we do have separate figures for a significant body of experience. The police and firemen insured under this plan are a young group, with an average monthly manual premium rate per \$1,000 of \$.60.

It is not likely that the proposed program would have as low an average insuring age as the New Jersey plan. For one thing, if a flat rate per \$1,000 is charged, there may be a tendency for younger age groups to stay with their own plans and the older age groups to participate in the Federal plan. Thus we think a manual monthly rate as high as \$.75 per \$1,000 might be produced. With this kind of an age distribution, life and accidental death and dismemberment claim costs might be expected to run \$.50 to \$.55 per month per \$1.000. Provision for

expenses and fluctuation margin might bring the cost close to \$.75.

To avoid the antiselection problem described above, it may be desirable to charge rates for life insurance based on age brackets. Perhaps 2 brackets over and under age 40, would be sufficient. Attachment B contains suggested modifications of the wording of S 2994 to permit the Administration to use rates by age brackets if deemed desirable. It also recognizes the fact that accidental death and dismemberment rates are independent of age.

4. ADMINISTRATION

The major task will be the enrollment, premium billing and accounting and the maintenance of inforce records, because of the large number of separate units involved. We are inclined to feel that it would be better if the records of individual insured lives were maintained only in the municipalities. Claims would be submitted through the municipalities which would certfy eligibility at that time. Premium collection would be handled through a self billing procedure by

each participating municipality. While this approach does not lend itself to tight controls, it avoids the large cost of maintenance of a centralized set of individual insurance records. It might be desirable, however, for the record keeping of small municipalities to be centralized on a state basis.

It was suggested that economies might be achieved if this program were merged with SGLI. Because of the difference in the makeup of the two groups, the financial aspects should be kept separate. While the Veterans Administration, which administers SGLI, probably has more insurance know-how than any other Federal Government Agency, this does not directly involve the premium collection function, which is the major problem under the proposal.

If preference beneficiaries similar to SGLI are used, the SGLI carrier should be able to handle such claims somewhat more easily than a new carrier, at least at the outset. However, this does not seem to be a major consideration. It's likely that a much higher proportion of public safety officers claims will involve

a beneficiary designation.

5. EXTENSION OF BENEFITS DURING DISABILITY

Terminating coverage in 31 days seems rather harsh where the termination arises from disability. Therefore, we suggest a one-year extension of benefits during continuous total disability. Suggested wording to accomplish this is contained in Attachment C. Limiting the suggested extension period to one year seems appropriate in view of the fact that benefits are not continued into retirement.

6. CONVERSIONS

Establishing the conversion procedures under SGLI was somewhat cumbersome because there were so many potential converting companies involved—all companies participating in the program plus a number of others. S 2994 provides that the Administration determine the criteria for (a) participating companies and (b) additional conversion companies. To enable the Administration to restrict the conversion companies to fewer than all participating companies, we suggest revised wording in attachment D.

7. OTHER COMMENTS

a. For administrative reasons, we believe that the decision to enter or not enter the plan should be made by the municipality, not by vote of the officers. The municipality will have certain important responsibilities in the administration of the plan. Better cooperation will be achieved if it makes the choice. Also, there will be less movement in and out of the plan.

b. In order to avoid discouraging the continuance of existing desirable state and local plans, the Federal contribution to such plans as are satisfactory should

be at the same level as to the Federally sponsored plan.

c. The preference beneficiary definitions in S 32995, which are the same as for SGLI, are preferable to those in S 2994. Administration of the dependency cri-

teria under the latter will be much more difficult.

d. The entire concept of S 2994 contemplates insurance only for employees working full time duty for pay. The reference in Section 500(5)(d) to volunteer firemen who perform duties without compensation is thus incompatible with the bill as currently drafted. If coverage for uncompensated volunteer firemen (or any other uncompensated class of persons) is contemplated, it appears to us that additional provisions should be added to the bill, for this purpose, which are broad enough to recognize eligibility, amounts of insurance, termination of insurance, etc. for such non-employed, non-compensated persons. Perhaps, such additional provisions may take the form of allowing the Administration to obtain coverage for such non-compensated volunteers under any policy or policies purchases on a basis established by the Administration consistent with the general purposes of Title II of the bill.

e. Under Section 503, we wonder if there is adequate flexibility to allow for handling temporary short term absences of various types which may occur from time to time. For example, what happens to the insurance coverage of a policeman who is suspended from duty and pay-status for alleged misconduct or other rules infractions and who, in many instances, will be restored to duty and full pay status retroactively after departmental hearing or other process. Perhaps it may be desirable to modify Section 503 in some way to allow some flexibility

in accordance with rules established by the Administration.

f. S. 2994 now provides for automatic increases in insurance whenever annual basic pay rates increase so as to put employees in higher pay brackets under the schedule in Section 502(b)—(incorrectly numbered Section 501(b) in the bill draft). We believe such increases in insurance should not become effective for an employee not actively at work on full-time duty unless and until he re-

turns to active work on full-time duty.

Furthermore, we feel the bill should make allowance for decreases in insurance if an employee's basic rate of pay decreases so as to place him in a lower earnings bracket, subject to the full-time work requirement. We suggest these changes may be handled by substituting the following for the paragraph immediately following the schedule of amounts: "The amount of such insurance shall be automatically adjusted at any time a change in the annual basic rate of pay places any such officer in a different pay bracket of the schedule, subject to any deferment provisions approved by the Administration for an officer who is not actively at work on full-time duty when his pay bracket changes."

g. Since the plan of benefits is uniform and expected claim cost by age are not expected to vary much by type of officer and location, we believe that the federally provided benefits can be most economically made available under a

single program or policy.

Attachment A

New York State Minimum Premium Rates Term Life Insurance

	[Basic monthly premium rate per \$1,000 of insurance]	
Age:		
20		\$0.23
25		.25
30		.27
35		.32
40		.45
45		.68
50		1.06
55		1, 65
60		2.51
65		3.78

¹Rates are by individual age; quinquennial age rates are shown here for illustrative purposes.

Female Reduction.—The basic rates applicable to female lives would be the above rates less a 40% reduction, reflecting the lower mortality ratios expe-

rienced among females.

Additional Expense Loading.—The rates in the above table are increased by an amount determined by dividing \$8.00 by the number of \$1,000 units in the total insured group. Thus this loading would amount to \$.10 per month per \$1,000 for a group producing \$80,000 of insurance, \$.01 per month per \$1,000 for a group producing \$800,000 of insurance, \$.001 per month per \$1,000 for a group producing \$8,000,000 of insured volume.

Volume Reduction.—Total premiums produced by applying the rates from above (after the female reduction and additional expense loading, if any) to the insured group are then reduced to reflect expense savings due to group size, provided the total monthly premium before reduction is at least \$200. This reduction grades from 1% for groups producing between \$200 and \$225 of monthly premium, to 35% for groups producing \$80,000 or more of monthly premium.

Attachment B

SUGGESTED SUBSTITUTE FOR SECTION 509. (a)

Each policy or policies purchased under this Part shall include for the first policy year basic tables of premium rates as follows:

(1) For group life insurance, a schedule of basic premium rates by age which the Administration shall have determined on a basis consistent with the lowest schedule of basic premium rates generally charged for new group life insurance policies issued to large employers; and

(2) For group accidental death and dismemberment insurance, a basic premium rate which the Administration shall have determined on a basis consistent with the lowest rate generally charged for new group accidental death and

dismemberment insurance policies issued to large employers.

The schedule for group life insurance, except as otherwise provided in this Section, shall be applied (A) to the distribution by age of the amounts of group life insurance under the policy at its date of issue to determine an average basic premium rate per \$1,000 of life insurance, or (B) in lieu thereof, if so determined by the Administration, to the distribution by age groupings established by the Administration, of the amounts of group life insurance under the policy at its date of issue to determine average basic premium rates per \$1,000 of life insurance for such respective age groupings.

Each policy so purchased shall also include provisions whereby the basic rates of premium determined for the first policy year shall be continued for subsequent policy years, except that they may be readjusted for any subsequent year, based on the experience under the policy, such readjustment to be made by the insurance company issuing the policy on a basis determined by the Administration in advance of such year to be consistent with the general practice of life insurance companies under policies of group life insurance and group accidental

death and dismemberment insurance issued to large employers.

Attachment C

SUGGESTED CHANGES IN SECTION 503

(1) Insert "(a)" after "503" in the 1st line.
(2) Insert the following between "shall" and "cease" in 5th line: ", unless previously discontinued upon the written request of the public safety officer,"

(3) Add the following:

"(b) Each policy so purchased shall contain a provision, in terms approved by the Administration, to the effect that, notwithstanding cessation of insurance on any public safety officer as provided in subsection (a) of this section, the amount of group life insurance under this Part on such public safety officer immediately prior to such cessation will be payable, upon due proof of claim, if while insured and prior to age 60 he became totally disabled at such cessation under criteria established by the Administration, remained continuously so totally disabled until his death, and died within a period following such cessation equal to the lesser of (1) one year and (2) the time the public safety officer's insurance under this Part was continuously in force immediately prior to such cessation. If, on the date of such public safety officer's death, an individual policy issued in accordance with section 504 of this Part is in force on his life, claim under this subsection (b) shall be conditioned upon the surrender of all rights and benefits under that individual policy except for a refund of premiums."

Attachment D

SUGGESTED SUBSTITUTE FOR SECTION 504

Each policy purchased under this Part shall contain a provision for the conversion of such insurance effective the day following the date such insurance would cease as provided in section 503 of this Part. During the 31 day period preceding the date of such cessation of insurance the insured, upon request to the administrative office established under Section 501 of this Part, shall be furnished a list of life insurance companies which have then been accepted by the Administration as eligible to issue insurance in accordance with this section and upon written application (within such period) to the company selected by the insured and payment of the required premiums be granted insurance without a medical examination on a permanent plan then currently written by such company which does not provide for the payment of an additional amount of premiums if the insured engages in public safety activities.

Bankers Life Nebraska, Lincoln, Nebr., February 7, 1972.

Hon. JOHN L. McCLELLAN,

U.S. Senate, Committee on the Judiciary, Subcommittee on Criminal Laws and Procedures, Washington, D.C.

DEAR SIR: I am enclosing a memorandum written by Bob Weimer, Group Actuary, and George Stroh, Chief Group Underwriter, relative to the public safety officers insurance programs which are the subjects of S. 2994 and S. 2995.

It would appear that this memorandum is sufficient to constitute our response

to your letter of January 7 requesting comments on this program.

Sincerely,

JOHN A. FIBIGER, F.S.A., Vice President—Group.

JANUARY 28, 1972.

Bankers Life Nebraska does underwrite group life insurance and group accidental death and dismemberment insurance programs for Public Safety Officers as defined by S. 2994 and S. 2995. It is our opinion that such group insurance is generally available from other group writing insurance companies.

Typical programs are partially paid for by the participating employers and

partially by the governmental unit that is the employer.

Although premium rates vary depending upon age distribution, female content and total insurance volume, it is true that for groups with similar composition rates for public safety officers are higher than for many other governmental employers or for many industrial groups. It is statistically demonstrable that the probability of death and especially of accidental death varies by type of occupation. Over the years, groups of public safety officers have experienced sufficiently higher claim costs to call for extra premiums.

The typical public safety officer group underwritten by Bankers Life Nebraska would be charged an extra monthly premium of 16 cents per thousand dollars for life insurance and an extra 12 cents per thousand dollars for accidental death and dismemberment insurance. Standard monthly premiums would be in the range of 60 cents to \$1.00 per thousand dollars for life insurance and six cents

per thousand for accidental death and dismemberment insurance.

It is our opinion that any lack of insurance coverage on public safety officers is not due to unavailability of insurance but rather due to reluctance to pay the necessary extra premium required. Another obstacle to coverage is that group insurance only realizes economy of operation and can properly spread the mortality risk when a large group is insured. Currently, most separate governmental units must purchase coverage for their own public safety officers independent of other similar units. Many such units are too small to meet statutory requirements for group insurance.

Allowing, requiring, combining of public safety officers into larger units for insurance purposes would be highly beneficial. There are practical limits to reduction of expenses with increase in size so that a national program covering all public safey officers under one plan could well be more expensive than doing it on a state-wide or perhaps smaller basis. For this reason, we would prefer the two-stage program invisioned by Title II of S. 2994 to the direct federal pro-

gram suggested by Title II of S. 2995.

The extra mortality cost associated with public safety officers has been a major deterent to date to the widespread utilization of group insurance by local governmental units. A federal program providing reimbursement of at least these extra mortality costs would encourage the establishment of state-wide or local programs of group insurance. The lowest possible cost respecting both mortality and expenses would be realized with maximum participation. This would be where the entire cost of the insurance program would be borne by other than the public safety officers. This cost might well be split between the local employing governmental unit and state and federal government.

We would suggest that accidental death and dismemberment insurance not be provided under this program. The insured and his dependents will not derive any significant security from this coverage because benefits from this coverage depend entirely upon the cause of death. Accidental death and dismemberment benefits cannot be realistically considered when determining an individual's insurance needs. The cause of death, in our opinion, should not be the basis of

determining the amount of insurance proceeds.

S. 2994 appears to be a more realistic approach to the objectives of both S. 2994 and S. 2995. It would allow economy of size without passing the point of diminishing returns and provide flexibility. A single national program could most economically be insured by a single insurance company which would then provide a program of reinsurance with other companies. The number of insurers capable of handling such a program is limited to perhaps the 200 largest. Providing benefits under state wide or similar programs would be within the capabilities of nearly all group insurers.

There seems to be no compelling insurance reason for either including all public

safety officers in one program or separating them.

The estimated cost per month for \$11,000 of life insurance on one million public safety officers is within the range of \$.50 to \$.75 per \$1.000 per month. This largely depends on actual age distribution with the lower range more likely. Differences in approach will have little effect on final cost. Similar AD&D coverage we estimate to cost approximately \$.18 per \$1,000 per month.

New York Life Insurance Co., New York N.Y., February 7, 1972.

Hon. John L. McClellan, U.S. Senate, Committee of the Judiciary, Subcommittee on Criminal Laws and Procedures, Washington, D.C.

DEAR SENATOR McClellan: We are pleased to respond to your communication regarding the group life insurance program in the "Victims of Crime Act of 1972".

The attached memorandum gives our detailed comments on various aspects of the proposed plan. Briefly, the major comments may be summarized as fol-

lows:

(1) Public safety officers have generally higher mortality than corresponding groups of employees in other public employment or in private employment. The bill does not seem to provide an appropriate means of financing this extra risk.

(2) In order to keep the plan attractive to younger participants, it is customary in group plans with a high employee contribution that the contribution payable to an individual be graded by age, with lower contributions for younger participants and higher contributions for older participants. Similarly, if a state or local unit of government shares part of the cost of the plan, its share is generally based on the age distribution of its public safety officers.

(3) In a number of respects, improved drafting would facilitate contract preparation and plan administration. Except for adding provision for financing the extra risk, the changes would be relatively minor. Perhaps the Servicemen's Group Life Insurance Act (PL 89-214, 89th Congress, S. 2127) could be used as

a model.

Thank you for the opportunity to comment on this proposed legislation.

Sincerely yours,

JOHN F. RYAN. Senior Vice President.

Specific Comments RE: Proposed "Victims of Crime Act of 1972, Title II"

A. ACTUARIAL SOUNDNESS

Data on the mortality of public safety officers are available in the "Transactions of the Society of Actuaries, 1965 Reports" and the "1967 Occupation Study" published by the Society of Actuaries. These studies, summarized in the attached Table 1, indicate that public safety officers have a significantly higher risk of morality than the corresponding groups of employees in government or private employment. This extra mortality hazard apparently arises not only from the obvious occupational hazard itself, but also is evident in a greater than expected number of deaths from natural causes.

An actuarially sound plan should make explicit provision for the financing of these extra hazards. If the excess is defined as the "excess above that incurred by the male civilian population", analogous to the original definition in the Servicemen's Group Life Act (PL 89-214), it would cover both the occupational hazard and the extra deaths from natural causes. In any event, it would be unsound to keep premium costs at a level corresponding to groups issued to large employers because this would not cover the additional mortality that is expected even if the occupational hazards are separately financed.

B. USE OF AVERAGE PREMIUM RATES AND AVERAGE CONTRIBUTIONS

(Note: in customary insurance terminology, "premiums" and "premium rates" refer to the total cost, and "contribution" refers to the portion of cost borne by the individual participant. These distinctions do not seem to be clearly made in

the language of the bill.)

We note that under either S2994 or S2995 a substantial portion of the total cost will be borne by the public safety officers themselves, and that an individual may elect not to participate in the plan. Since these occupations include a wide spread of ages, an average rate contribution per individual is likely to be an overcharge for the younger officers and a bargain for the older officers. Under these circumstances, a disproportionate number of younger officers are likely to elect not to be covered. This would raise the average contribution, to reflect the age distribution of those insured, with the resulting risk of making the plan still less attractive to younger officers.

In addition to the election by individual public safety officers as to whether to be enrolled in the plan or not, both S2994 and S2995 include the possibility that a state or local unit of government could choose whether to be covered under the Federal plan or not. This introduces an uncertainty as to the age distribution of insured public safety officers and makes the advance determination of an average premium rate difficult. Furthermore, the use of an average premium rate will make the plan less attractive to communities with a relatively young force of public safety officers, thereby tending to skew the age distribution of a

manner similar to the election of individual officers.

For these reasons, we believe that the provision of the bill as to the use of basic premium rates varying by age is sound, but that the plan should also provide for the use of age-graded contributions by the public safety officers. For simpler administration, the contribution might be arranged in age-brackets, such as: less than 30, 30–39, 40–44, 45–49, 50–54, 55–59, 60–64, etc.

C. DRAFT LANGUAGE

(1) In S2994, the definition of firemen may include voluntary fire departments. In some sections of the country, these may range from fully functioning groups to merely social remnants of once active organizations. It would appear that the definition in S2995 is more precise.

(2) In the text of S2995 as we received it, the provisions relating to benefits for

accidental death and dismemberment appears to have transposed lines.

(3) The draft language about the conversion privilege is not clear as to whether or not accidental death and dismemberment benefits are to be included in the individual policy. Generally, group plans do not provide for the conversion of accidental death benefits. If accidental death benefits are to be converted, two points must be recognized:

-Individual insurance almost never provides dismemberment benefits.

-A conversion charge for the extra accidental risk must be made.

D. GENERAL COMMENTS RELATED TO SOME OF THE ILLUSTRATIVE QUESTIONS

(a) Many public safety officers qualify for individual insurance at standard rates. With respect to group insurance, policemen and firemen are sometimes covered under life insurance and accidental death programs provided by private insurance companies if they are part of a larger group of all municipal or governmental employees. We believe that very few group plans cover correctional guards unless they are in a plan covering all state employees. Generally speaking, where public safety officers are covered for group insurance, the contribution made by the individual officer is limited to 60¢ per thousand per month and the balance of the cost is borne by the state or local unit of government. The total cost of covering policemen and firemen is 40% to 50% higher than the typical cost of providing life insurance to other governmental employees or employees in private employment. However, because they are usually insured as part of a governmental plan covering all employees, the cost is not segregated and is not readily apparent.

(b) Some of the difficulties which may be felt to stand in the way of establishing group insurance programs covering government employees are the necessity of charging higher rates if policemen and firemen are a significant portion of the group to be insured, the legal right of the local government or state to pay for some portion of the insurance and the uncertainties of long term prospects for

keeping the case in force because of changes in political administration, diffi-

culties of financing, etc.

(c) The proposed program of life insurance benefits under S2995 would seem more appropriate than under S2994 because the former apparently calls for a single plan with a single administrative contact, whereas the latter apparently implies separate state plans with a multiplicity of administrative contact points. Apart from the administrative aspects, we see no significant insurance differences between the two versions.

It would seem that it would be administratively more feasible to include all public safety officers in the same program rather than establishing separate

programs for each separate category of public safety officer.

(d) The latest information available to us as to the age distribution of public safety officers dates from 1960 and there undoubtedly has been a considerable change since that time. Furthermore, because of the possibility that units of government may or may not participate and that individual public safety officers may or may not participate, we feel that no valid projection of the insured age distribution can be made at this time. Therefore, we cannot make any estimate of the cost per thousand of the proposed coverage.

TABLE 1.—EXTRACT FROM TRANSACTIONS, SOCIETY OF ACTUARIES, 1965 REPORTS (BASED ON EXPERIENCE OF GROUP LIFE INSURANCE)

[In percent]

	Police	Fire
Ratio of actual deaths to tabular deaths, all causes of disability ¹	142. 0 1. 8 . 53	152. 0 2. 9 . 36

¹ For individuals under age 65.

EXTRACT FROM 1967 OCCUPATION STUDY, SOCIETY OF ACTUARIES (BASED ON EXPERIENCE OF LIVES INDIVIDUALLY INSURED)

[In percent]

	Penal guards	Police 1	Fire 1	Sheriffs and marshals
Ratio of actual deaths to tabular deaths	184. 0	122. 0	107. 0 122. 0	179. 0
Extra deaths per 1,000	2. 60	144. 0 . 55	. 12	2. 60
Accidental deaths per 1,000	1.02	. 29	. 12 . 49 . 45 . 70	.77

¹ Where 2 figures are shown, the experience was split into segments; the figures give the range of all segments.

American United Life Insurance Co., Indianapolis, Ind., January 28, 1972.

Hon. John L. McClellan, Senator from Arkansas, Washington, D.C.

DEAR SENATOR McCLELLAN: We have received your letter of January 7, 1972, together with the Memorandum and various supporting papers relating to the "Victims of Crime Act of 1972" (S. 2994).

We are pleased to make the following comments regarding the proposal to establish a Federal-State group life and dismemberment insurance program for State and local public safety officers, including policemen, firefighters and cor-

rectional guards.

(1) Private insurance carriers offer life insurance coverage to public safety officers in the forms of both individual policies and group contracts. In either case, the insurance risk is judged according to the same criteria as it is for other governmental employees or for non-governmental employees. Consequently, unless the circumstances warrant, the public safety officer will be issued coverage at a standard premium rate.

The same general policy is followed with respect to accidental death benefits under individual policies and accidental death and dismemberment benefits under group contracts. American United Life, for example, currently insures members of the Sheriff's Association of Los Angeles County who choose to participate

in a group life insurance program designed for them.

(2) Recent conditions have caused feelings among underwriters that the public safety officer is no longer a standard risk. Many are beginning to believe that a modest rating might be in order for life insurance coverage, and that the accidental death and dismemberment premium rate, particularly for 24-hour coverage (that is, for both occupational and non-occupational accidents), should probably be rated at 2X the standard premium. However, until now few carriers, if any, have taken steps in this direction, so that public safety officers are still being underwritten at standard rates.

(3) In the past, difficulties have rarely arisen from the refusal of insurers to underwrite the public safety officer risk. Generally, the problem has been that all the funds needed for premiums were not appropriated by the responsible State or local governmental authorities, if indeed any were appropriated

at all.

Historically, group insurance programs where the cost was wholly paid by employees directly out of their own pockets have not been successful, and public safety officers' groups have been no exception to this rule. But when legislative bodies have appropriated all or a predetermined part of the cost of such plans, in the same manner as a private employer makes his contributions, the programs have worked out satisfactorily, provided these appropriations continued uninterruptedly and were of the amounts needed. Results are also satisfactory in instances where the officers belong to a professional association which was not formed for insurance but where part of the members' dues are used to provide them with insurance benefits.

(4) At the moment, the future of the cost of these programs is no longer as predictable as it once was. In recent years, claims experience has been affected by social factors and pressures which are beyond the control of the various parties involved in such programs or enjoying their benefits. If the rise in crime rates and the harassment of public safety officers continues, premium rates will almost certainly be increased to reflect the higher claim rates that are bound to ensue. But if these stay at current levels or diminish, it is likely that current underwriting practices, using standard premium rates, will remain unchanged.

(5) If the effect of these social pressures increases significantly, the private insurance sector may not be in a position to insure public safety officers without some support toward the programs' cost. In that event, it might well become necessary for the Federal Government to assist in providing such protection by making available the additional funds needed. Even then, it should be possible for insurers to provide the usual group life insurance coverage, including a non-occupational AD&D benefit with Government directing its support toward that portion of the program which awards additional benefits when the death of a public safety officer is due to occupational causes—in other words, "in the line of duty".

And if, as a last resort, Government funds are used to provide substantially all of the insurance coverage, an arrangement similar to that for F.E.G.L.I.

and S.E.G.L.I. would be feasible.

As you read these comments, please keep in mind that they express personal views held by myself and several others at our Company. These statements do not necessarily represent the position of American United Life.

If you would like any additional information or if you feel we can be of any

further service, please let us know.

Sincerely,

George Brummer, Group Actuary.

STANDARD INSURANCE Co., Portland, Oreg., January 28, 1972.

Re Title II, Victims of Crime Act of 1972 (S. 2994).

Hon. JOHN L. McCLELLAN.

U.S. Senate,

Washington, D.C.

DEAR SENATOR McCLELLAN: Thank you for giving us the opportunity to comment on Title II of Senate Bill 2994. We feel uniquely qualified to do so

because we have long provided group life insurance and accidental death and dismemberment insurance on the lives of policemen, firemen and correctional guards. As a case in point, our Company's first group insurance program, written in 1951, was a policy issued to the State of Oregon covering State police officers and guards at the Oregon State Penitentiary.

Since that date we have added significantly to our book of in-force business on public safety officer groups. I am preparing for your Subcommittee's perusal a list of public safety groups insured by Standard Insurance Company, showing the number of persons covered, the nature of the benefits provided, the premium rates being paid, and the degree to which the employer contributes to the cost.

Our experience with this business over the years has indicated that the insurance can be provided at very reasonable premium rates. This will be apparent as you review the premium rates in the material which will be forthcoming. Further, we are finding that State and local governments increasingly are contributing to the cost of insurance plans for their employees, including public safety officers.

We believe the coverage already provided in most of the territory in which our Company operates (10 Western States) indicates the ability of commercial insurers such as ourselves to make the insurance available which Title II seeks to provide. The fact that so many State and local governments have availed themselves of this insurance leads us to question the necessity for federal or

federally-subsidized plans.

As an example, we are enclosing a copy of a recent (1971) Oregon Statute which requires public employers of policemen and firemen to participate in a new State group insurance plan. Under the plan police officers and firemen are provided a group term life certificate for \$10,000, covering death resulting from injury incurred while on the job as a police officer or fireman.

It will take several weeks to compile and forward to you the previously mentioned information. If you have questions on its receipt, please call on me.

Sincerely,

BENJAMIN R. WHITELEY, Vice President, Group Insurance.

CHAPTER 692

AN ACT

[HB 1849]

Relating to certain public employes; creating new provisions; repealing ORS 243.010, 243.020, 243.040, 243.050, 243.060 and 243.070; and declaring an emergency

Be it enacted by the People of the State of Oregon:

Section 1. Sections 2 to 5 of this Act are added to and made a part of ORS chapter 237.

Section 2. As used in sections 2 and 3 of this 1971 Act:

(1) "Fireman" means persons employed by a city, county or district whose

duties involve fire fighting but does not include volunteer fire fighters.

(2) "Police officer" includes police chiefs and policemen of a city who are classified as police officers by the council or other governing body of the city; sheriffs and those deputy sheriffs whose duties, as classified by the county governing body, are the regular duties of police officers; and employes of districts, whose duties, as classified by the governing body of the district, are the regular duties of police officers; but "police officer" does not include volunteer or reserve police officers or persons considered by the respective governing bodies to be civil deputies or clerical personnel.

(3) "Public employer" means any city, county or district that employs police

officers or firemen.

Section 3. (1) On or before July 1, 1973, all public employers of police officers and firemen who are not participants in the Public Employes' Retirement System shall become participants in the system with respect to the police officers and fire-

men employed by them.

(2) All police officers and firemen who are in the employ of the public employer on the date the public employer becomes a participant in the system under subsection (1) of this section shall become members of the system on that date. All police officers and firemen subsequently employed by the public employer shall become members as they become eligible under the provisions of ORS 237.011.

(3) The participation of the public employer in the system under this section shall apply only to services of its employe police officers and firemen on and after the effective date of the public employer's participation in the system. However, if it desires to do so the public employer may elect to provide a prior service pension for its police officers and firemen within the limitations of subsection

(2) of ORS 237.081.

(4) Notwithstanding subsections (1) and (2) of this section, if a public employer provides retirement benefits to its police officers and firemen which are equal to or better than the benefits which would be provided to them under the system, as determined by the Public Employes' Retirement Board, the public employer shall not be required to participate in the system with respect to its police officers and firemen. This exemption shall continue to apply for only as long as the coverage remains substantially unchanged under ORS 237.001 to 237.315 but must be reexamined whenever substantial changes are made therein.

Section 4. (1) A police officer or fireman, other than a volunteer fire fighter, who would be entitled to receive disability benefits as a member of the Public Employes' Retirement System under subsection (1) of ORS 237.171, may elect to receive the service-connected disability retirement allowance authorized under this section. The allowance authorized under this section is an amount equal to 40 percent of the police officer's or fireman's final average salary as determined at the date of the injury causing the disability, less any benefits he receives under ORS chapter 656. If elected, the allowance authorized under this section is in lieu of any service-connected disability retirement benefit available under ORS 237.001 to 237.315.

(2) The election to receive the benefits authorized under subsection (1) of this section shall be made within 90 days after the board makes its decision that the police officer or fireman is disabled. The election once made shall not be

changed.

(3) A police officer or fireman electing to receive the benefits authorized under subsection (1) of this section may elect to convert those benefits to a service-connected disability retirement annuity of equivalent actuarial value as provided in ORS 237.181.

(4) Nothing in this section shall interfere with the right of a police officer or fireman to receive a disability retirement allowance under ORS 237.001 to

237.315 for disability not incurred in the line of duty.

Section 5. (1) The surviving spouse or child of a police officer or fireman, who died a member of the Public Employes' Retirement System while retired either for service or other disability and while receiving or being entitled to receive a benefit under section 4 of this 1971 Act or under ORS 237.001 to 237.315, is entitled to a benefit under this section. The benefit shall be equal to 25 percent of the unmodified retirement allowance the police officer or fireman was receiving or was entitled to receive at the time of his death under section 4 of this 1971 Act or under ORS 237.001 to 237.315. The benefit authorized by this section is in addition to any other benefit the surviving spouse or child is entitled to and is available to the child until he attains 18 years of age.

(2) For the purpose of this section, the unmodified retirement allowance is that allowance described in ORS 237.147, or if election to receive the benefits authorized under section 4 of this 1971 Act has been made, the unmodified retirement allowance is 40 percent of the final average salary as determined on the date of

the injury causing disability.

Section 6. As used in sections 6 to 11 of this Act:

(1) "Fireman" means persons employed by a city, county or district whose duties involve fire fighting and includes a volunteer fire fighter whose position

normally requires less than 600 hours of service per year.

(2) "Police officer" includes police chiefs and policemen of a city who are classified as police officers by the council or other governing body of the city; sheriffs and those deputy sheriffs whose duties, as classified by the county governing body are the regular duties of police officers; employes of districts, whose duties, as classified by the governing body of the district are the regular duties of police officers; employes of the Department of State Police who are classified as police officers by the Superintendent of State Police; and employes of the Oregon State Penitentiary and of the Oregon State Correction Institution whose duties, as assigned by the superintendent, include the custody of persons committed to the custody of or transferred to the penitentiary or correctional institution; but "police officer" does not include volunteer or reserve police officers or persons con-

sidered by the respective governing bodies to be civil deputies or clerical per-

(3) "Public employer" means a city, a county or the state, or one of its agencies

or political subdivisions that employs police officers or firemen.

Section 7. One or before July 1, 1973, the Department of General Services shall enter into a contract with an insurance company licensed to do business in this state to purchase group insurance on the lives of all police officers and firemen

in the service of public employers.

Section 8. When the Department of General Services has negotiated the contract under section 7 of this Act, but not later than July 1, 1973, every police officer and fireman in the service of a public employer shall be issued, pursuant to the contract provided for in section 7 of this Act, a group term life insurance certificate in the face amount of \$10,000 on his life, covering death caused by injury sustained during working hours as a police officer or firemen or death resulting from such an injury within 365 days. The insurance certificate shall set forth the names of any beneficiaries whom the insured may designate.

Section 9. The premiums and administrative costs incurred by the Department of General Services for the insurance provided for in sections 6 to 11 of this Act shall be paid by the affected public employers and shall not come from funds of

the Public Employes' Retirement System.

Section 10. Every public employer shall include in its budget amounts sufficient to pay the annual premiums accruing on the policies of insurance issued pursuant to sections 6 to 11 of this Act, and amounts sufficient to reimburse the Department of General Services for its administrative expenses incurred under sections 6 to 11 of this Act.

Section 11. Notwithstanding ORS 743.303, police officers and firemen are considered to be associated in a common group formed for purposes other than the obtaining of insurance and are eligible for a policy of group life insurance

to be available in the manner provided in sections 6 to 11 of this Act.

Section 12. Notwithstanding sections 6 to 11 of this Act, if a public employer provides benefits equal to or better than the insurance required under section 8 of this Act, as determined by the Insurance Commissioner, the public employer is exempt from the requirements of sections 6 to 11 of this Act for so long as such benefits continue to be equal or better than the insurance required, as determined by the Insurance Commissioner.

Section 13. The policies of insurance provided under ORS 243.020 shall be continued in effect for police officers, as defined in section 6 of this Act, until

contracts are issued pursuant to section 8 of this Act. Section 14. ORS 243.010, 243.020, 243.040, 243.050, 243.060 and 243.070 are

repealed. Section 15. This Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Act takes effect July 1, 1971.

Approved by the Governor June 30, 1971.

Filed in the office of Secretary of State June 30, 1971.

NATIONWIDE INSURANCE, Columbus, Ohio, January 25, 1972.

Re Victims of Crime Act of 1972.

Hon. John L. McClellan, U.S. Senate, Committee on the Judiciary, Chairman, Subcommittee on Criminal Laws and Procedures, Washington, D.C.

DEAR SENATOR: We are most appreciative of the opportunity to review the above law and express our opinion on the matter of group insurance for public safety officers.

It was somewhat of a suprise to us to read a statement that indicated that insurance programs are not generally available to public service officers. Nationwide Life Insurance Company makes these programs available to legitimate groups applying for coverage at standard minimum group rates for life insurance and at a rate for accidental death and dismemberment varying from the standard rate of \$.05 per month per \$1,000 of coverage to \$.12 per month per \$1,000 of coverage for a limited number of special risk groups such as police officers using motorcycles extensively. When political subdivisions make such insurance plans available it has been our experience that competition among insurers has been

very keen and that there is little difference between rates for public safety officers and for other groups of government employees with comparable ages and

comparable earnings.

Under most group plans the maximum amount that each covered person may pay per month for group life insurance is \$.06 per \$1,000. The cost to the individual public safety officers may vary from nothing to the full cost for all of his coverage. I would suspect that a large proportion of the one million public safety officers mentioned may already be covered for some form of group insurance. The exception would be, of course, the very small unit where no more than one to nine lives are involved. We have also found that many of the political subdivisions have been reluctant to purchase group insurance because of budget deficiencies.

From an insurance point of view there seems to be little difference between the two-stage State or Federal program approach. I believe it is obvious that the larger Federal contribution under the Federal program approach would become

the more popular.

There does not seem to be any long term danger to restrict the independence of local police force unless there are other qualifications written into the require-

ments to participate.

It appears that the cost per \$1,000 of insurance under either program would be the same since it is our opinion that the final cost will depend more on the average age of the people covered than on the small amount of the extra risk involved. Under either of the two plans there will be a considerable problem in the collection of the premium to be contributed by political subdivisions or by the officers themselves.

It is almost a certainty that there will be no problem in obtaining a number of insurance companies who would be willing to underwrite either program.

It does not appear that there would be any necessity to subdivide the program between different group classifications since the difference in mortality because of the risk caused by crime is only a very small part of the entire risk. In regard to the draftsmanship of either proposal, no serious defects have been noted.

In regard to the overall program for providing insurance for peace officers there's serious doubt that such a program will accomplish the mission desired. It has been our experience in dealing with many group insurance beneficiaries that the money received is quickly dissipated, and the intent of the group plan, which is to provide a transition period for the beneficiary, as not been accomplised. It seems quite easy for beneficiaries with large amounts of money suddenly at their disposal to purchase expensive funerals, expensive cars, and other items that after a short while defeat the purpose of insurance. The schedule of insurance also seems to provide greater benefits for those supervisory officers who are not exposed to the crime risk on a day-to-day basis as are the lower paid officers. This could be corrected by making the minimum "line of duty" accidental death benefit \$20,000. It is also suggested that it be required that the face amount of the policy be payable in the form of first a burial fee (\$2,000 or \$3,000), and then as a percentage of the officer's pay, say 70 per cent per month, as long as the proceeds will carry. Monthly payment could be made to the widow or dependent children or dependent parents, in that order.

We have found that the billing problems, particularly on small groups, are especially onerous. Changes of beneficiary, new entrants and terminations, and the ease with which some small political subdivisions can overlook important details would cause us to recommend that service be performed on some kind of a state or substate level. It seems obvious that premiums would have to be collected monthly, and those of us that have worked with small multi-employer cases recognize that the problems of a single plan handled from a central Federal

office could result in considerable confusion.

We hope that these comments will give you the information you desire. Should you have questions, or if additional information is desired, I should be glad to be contacted by either you or your staff.

Once again, we do appreciate the opportunity of reviewing and commenting on this legislation.

Yours very truly,

H. C. EYRE,
Vice President,
Group Insurance Manager.

THE NATIONAL LIFE & ACCIDENT INSURANCE Co., Nashville, Tenn., January 27, 1972.

Subject: "Victims of Crime Act of 1972," (S. 2994).

Hon. John L. McClellan,

U.S. Senate, Committee on the udiciary, Subcommittee on Criminal Laws and Procedures, Washington, D.C.

DEAR SENATOR McClellan: Your letter of January 7, 1972, concerning the "Victims of Crime Act of 1972" (S. 2994) has been referred to me. We greatly appreciate your referring this bill to us, giving us a chance to examine it and

comment upon it.

The National Life and Accident Insurance Company has marketed group insurance only for the last year, so our experience in this area is not as great as that of many other companies which have provided group insurance coverages for many years. Further, our emphasis is on provision of coverage for comparatively small groups, so we have no experience as the direct writer of a group of the size which you hypothesize. However, our sales to relatively small groups have brought us in contact with a good many groups of the type which you describe as local units, so we feel that we do have some comments to make in this area.

This Company participates as a reinsurer in several programs authorized by the Federal Government to provide insurance coverage on groups of federal employees. Such programs include Servicemen's Group Life Insurance program, the Federal Employees Group Life Insurance program, and the Federal Employees Health Benefits program (including conversion policies and retired employees). We agree fully with the desirability of such coverages, and the validity of the Federal Government's position in helping underwrite the cost of such programs on its own employees.

However, it appears that the subject bill extends federal financing of insurance programs to an entirely different group—people who are state or local employees rather than federal employees. We question the desirability of this extension of the concept, whether under the federal-state sharing proposed in S. 2994 or the entirely federal program proposed in S. 2995. Once such a precedent is set, we wonder how much farther the concept could be extended in the

future.

During our limited experience, we have issued quotations on several groups of public safety officers. When such a quotation is made on a group consisting solely of public safety officers, we add an additional premium to our standard rates, since higher claim levels can be expected generally from such groups. For actuarial support of this approach, you might wish to refer to the "1967 Occupational Study," published by the Society of Actuaries, as well as several other studies referred to in that publication. Experience concerning firemen and policemen who arrest is included on page 40 of the "1967 Occupational Study." However, if public safety officers are included with the other employees of a municipality or other local government unit, and such public safety officers do not comprise a large percentage of the total number of employees, the entire group will be written at our standard rates. This approach raises some questions concerning the language of the statute—commercial insurance is available which provides "insurance at competitive costs with comparable coverage . . . issued to large employers of occupations other than public safety officers" if the local government applies for coverage on the entire group of employees, but is available only at an additional premium if the public safety officers are covered as a separate group. We fail to see why the decision of the local government to split out the public service officers as a separate group should make them available for a public subsidy—in fact, we believe it is entirely possible that the existence of the federal subsidy under these circumstances would cause many local units to make such a split in order to qualify for the federal subsidy.

With respect to the premiums to be charged under the federal or federal-state program, it appears inevitable that the proposed funding of the program will prove to be inadequate. The experience studies mentioned above indicate that higher-than-average losses can be expected from this group. To attempt to fund a program in which higher-than-standard losses are expected by charging standard premiums simply is not actuarially sound. It appears likely that, once the premium so generated proves to be inadequate, the road of least resistance would be to increase the governmental contribution to the plan, in order to avoid any

increase in the deductions from the wages of individual public safety officers. Thus, it appears that the legislation as drafted contains the conditions precedent to inevitable growth in the federal contribution, even though the initial federal contribution is very carefully limited. We would much prefer to see such a program set up, if at all, on an actuarially sound basis from the beginning.

I have not attempted in this letter to give a detailed response to each specific point in the proposed bill, since to do so would require clarification of several points, and, further, we believe that the information which you receive on specifics from other more experienced companies will be of more value to you than our comments would be. Nonetheless, I hope that this letter has given you our general thinking concerning the merits of the proposed legislation, and our reasons for holding these opinions.

Again, thank you very much for giving us a chance to express our opinions on this significant legislation. Please be assured that we are at all times glad to be

of service to you and your Committee in any way in which we can.

Sincerely,

J. P. McAllister.

PROVIDENT MUTUAL LIFE
INSURANCE COMPANY OF PHILADELPHIA,
Philadelphia, Pa., January 18, 1972.

Senator John L. McClellan.

U.S. Senate, Committee on the Judiciary, Subcommittee on Criminal Laws and Procedures, Washington, D.C.

Dear Senator McClellan: Thank you for your letter of January 7, 1972, requesting advice with respect to the insurance and underwriting aspects of Title II

of the "Victims of Crime Act of 1972" (S. 2994).

Provident Mutual Life Insurance Company would not qualify as an insurer under Section 501(a)(1) as written because of the requirement that the Company be entered in all states and hold 1% of the group term life insurance in force. We would, however, undoubtedly consider participation in a reinsurance agreement similar to the SEGLI or FEGLI concepts. We assume that eligible carriers or the government will attempt to form such a pool if S. 2994 and/or S. 2995 are enacted.

Answers to several of the illustrative questions may give you an indication of our feeling toward the problem of providing adequate protection for the dependents of those public safety officers who die in the line of duty.

1. What insurance programs are generally available from private companies in the way of death and dismemberment programs for "public safety officers"

as defined by S. 2994?

The Provident Mutual has insured police and fire departments for both group term life insurance and occupational accidental death and dismemberment coverage. The schedules of insurance requested by government units have been about the same as other employer-employee groups. In a few cases where we have group term life insurance on the entire governmental unit, covrage exceeds the schedules in S. 2994 and S. 2995. We have not been reluctant to write this coverage and our comparatively limited experience has been good.

2. In typical programs what costs must be met by those individuals as well

as units of government covered by these programs?

For the most part, the plans which are written by Provident Mutual are non contributory and both group life and group accidental death and dismemberment.

3. How do these insurance costs compare to those incurred by employees other than public safety officers in government and private employment in occupations at the same income levels?

(Please include here any information available to you to indicate whether or not public safety officers have difficulty obtaining adequate life insurance because of the reluctance of companies to write such insurance on low salaries, have to pay higher rates than other government employers, are excluded from

double indemnity coverage, etc.).

Public safety officers are subject to a "Table of Industry Loading" on group term life insurance and the rates on accidental death and dismemberment are determined on a case by case basis. If, for example, we were to insure the lives of all the municipal employees of "Everytown, U.S.A." we would rate differently than we would if we were to insure the police and firemen only. The rating would depend upon the ratio of police and/or fire personnel exposure to the overall exposure.

These observations may be helpful:

(1) Governmental units may include other employees whose occupational risk of accidental death and dismemberment is at least as high as that of public safety officers.

(2) Certain private employment occupations are deemed to be more hazardous

than the risks taken by public safety officers.

(3) Watts, Detroit and Newark are at one end of the risk spectrum—Evening

Shade in your home state is probably at the other.

4. From an insurance perspective, which would you prefer, the two-staged State or Federal program envisioned by Title II of S. 2994 or a direct Federal program or Federal subsidy of an existing state or local program as suggested by Title II of S. 2995? Why?

We believe that S. 2994 would be preferable in that the right of elective participation in S. 2995 would result in certain high risk governmental units opting to join the plan if it were more favorable than existing coverage. This election would bring about deterioration of participation in any present State, county

or municipal plan.

10. From an insurance perspective, should all of those currently covered by the term "public safety officer" be included in the same program? Or would it be advisable to set up separate programs for each separate category of "public safety officer?"

It is our opinion that there would be little or no advantage in setting up

different programs for each category of public safety officer.

12. Please add any additional comments you desire, including comments on the actuarial soundness and feasibility of the proposed programs.

(1) Every risk has an initial rate and an ultimate rate. The larger the group

the sooner the ultimate rate will evolve.

(2) A sound program of equal group term life insurance for public safety officers will be helpful to effective law enforcement. It is our opinion that the plan will not come about without federal legislation and assistance.

(3) Keep in mind that with a national "one rate" plan, the big cities are more likely to gain and the rural areas lose. Carriers undoubtedly rate accidental death risks for public safety officers in urban areas less favorably than in sub-

urbia and feel less favorably toward suburbia than toward rural areas.

(4) It is possible that the enactment of S. 2994 or S. 2995 can set a precedent for negotiations of group term life policies for other employees of governmental units. As previously stated, many city workers have the same or greater hazard of death. It would seem that the public is more sympathetic to the sudden violent death of a public safety officer than to the drowning of a municipal barge employee or the entombment of a city sewer worker, yet the sociological impact on the decendents' families is identical.

(5) Most insurers combine group life and group health experience for rating purposes. Separation of the group life and accidental death and dismemberment risk will frequently lead to increases in the net cost of group health insurance. This increase may or may not be offset by the favorable life and accidental death and dismemberment rates that might emerge under S. 2994 or S. 2995. Without these two coverages the total premiums on existing insurance will obviously decrease and the percentage of the premium remaining that the insurer needs for administrative expenses will increase.

We are hopeful that these answers will be of assistance to the Congress. Sincerely,

EUGENE R. HOOK.

LIFE INSURANCE CO. OF GEORGIA, February 4, 1972.

Senator John L. McClellan.

U.S. Senate, Committee on the Judiciary, Subcommittee on Criminal Laws and Procedures, Washington, D.C.

Dear Senator McClellan: This is in response to your letter of January 7 regarding the "Victims of Crime Act of 1972". In all cases we do not feel that we have sufficient knowledge and expertise to reply fully, but here are some comments regarding the questions asked on pages 3 and 4 of your letter:

1. Group coverage, including life insurance and accidental death and dismemberment insurance, is routinely available for public safety officers. The group plans are issued to the employers of those officers, normally cities, municipalities,

etc., and a very large number of such group cases exists.

2. In a typical program the public safety officer would be expected to pay 50¢ per month per thousand for his life insurance and 9¢ per month per thousand for his AD&D insurance. As is true for all forms of group insurance, the balance of the monthly premium would be paid by the employer. In the case of the life insurance, this balance would depend upon the average age of those covered. In the case of AD&D for a group consisting entirely of public safety officers, the rate would probably be 15¢ per thousand per month. This means, therefore, that the city would be paying 6¢ of this cost.

3. The insurance costs actually paid by the public safety officers (50¢ and 9¢ in the typical situation described above) are the same as those that would be paid by any other typical employee. In other words, if there is any extra premium due to the hazardous nature of this employment, it is absorbed by the city and not by the policeman. I don't believe there is any difficulty in arranging group insurance programs which include public safety officers, so long as those programs are arranged in the normal manner through the employers. In fact, there is a lot

of competition among life insurance companies to write such business.

I might add that some companies do charge extra premiums for individual life insurance written on policemen making arrests. However, there is no difficulty in the group insurance business, which is the subject of your inquiry, as long as the city is willing to pay any additional premium cost that is charged.

4. S. 2994 seems to be preferable to S. 2995.

5. No.

6. S. 2994 appears preferable to S. 2995. However, as pointed out above, there is reason to believe that adequate group insurance programs are already available

to public safety officers, and are widely used.

12. In connection with this program, it might be pointed out that a very successful parallel situation exists—the Servicemen's Group Life Insurance program, which is underwritten by the life insurance companies in the country, and yet it involves a subsidy from the Federal Government to cover the additional war hazard.

I hope these comments may be of some help. Yours sincerely,

J. M. BRAGG, Vice President & Chief Actuary.

AETNA LIFE & CASUALTY. Hartford, Conn., March 31, 1972.

Re Victims of Crime Act of 1972

Hon. Senator John L. McClellan,

Chairman, Subcommittee on Criminal Laws and Procedures of the Committee on the Judiciary, U.S. Senate, Washington, D.C.

Dear Senator McClellan: In your letter of January 7, you asked us to comment upon your bill S. 2994-the "Victims of Crime Act of 1972". Title II of the bill would authorize a Federal-State group life and dismemberment insurance

program for State and local public safety personnel.

We concur with the purpose of Title I, which would establish a mechanism to compensate victims of violent crime. We concur substantially with, and will comment later on, Title III, which would establish a program to compensate the families of public safety officers killed or maimed in the line of duty. Society does have a responsibility, however shared among the several levels of government, to ease the burden of crime for those who suffer it. On the other hand, in considering Title II, we wonder whether it would be wise to single out group life and accidental death and dismemberment (hereafter AD&D) coverage for public safety officers, as a need that compels the use of special Federal incentive funds at a time when the whole question of revenue sharing between the Federal Government and the states and cities is under serious consideration by the Congress.

First, if adequate life insurance "is now often denied public safety officers," as you stated in your remarks introducing S. 2994, we would suggest that this is not due to a lack of availability of such coverage resulting from insurer underwriting policies, but rather because municipal, and often State, employee benefits tend to lag behind those in private industry. This, of course, affects adversely

all such public employees, not just public safety officers. Indeed, it is our experience that municipal police and firemen occasionally enjoy better group insurance protection than do other employees in the same unit of local government.

Group life insurance (with AD&D) is available to employees of State and local governments at rates competitive with those charged private employers. Aetna's underwriting policy is to assess no extra group life premium against State or local government units which include public safety officers if we insure all, or substantially all, employees of such a State or local government unit. If we are asked to insure a police only and/or firemen only case, we review the particulars of the situation to determine whether the group falls within normal limits; in general, an extra premium of approximately 20% of the regular premium would be required.

In short, public safety officers constitute a group showing somewhat higher mortality than average. There are many other employment categories which, for different reasons, also show higher than average mortality. When public safety officers are included in an entire State or local government group, it is possible to absorb the small extra hazard of public safety officers within existing margins.

While the rationale for some external support of group life insurance for public safety officers is not eliminated by the foregoing arguments, we question whether the need for such support is sufficiently compelling to warrant a Federal

program.

Second, benefits for accidental death or dismemberment are included in Title II and in Title III. Although the bill does not make it clear, we presume that the coverage in Title II is intended to be "24 hour" coverage, i.e., to pay off regardless of whether the accident was job-related or not. The AD&D coverage in Title III is explicit—payment (at a higher rate) is made only in the case of an officer killed "in the line of duty as the result of a criminal act." Clearly, if payment is made under Title III, there will be an overlap with Title II.

Group AD&D benefits are available to public safety officers for off-duty coverage at our lowest rates. Twenty-four hour coverage is rated up—about 21/2 times—for such an employment group; however, there is a host of other employment groups, e.g. farm workers, lumberers, miners and others, which are

rated up higher.

We do not disagree that the benefits of Title III are reasonable and may deserve Federal support. However, we think the Federal responsibility need not extend to such off-duty AD&D coverage as Title II would afford. Again, that can be supplied by the private insurance market. The coverage of Title III should complement that of Title II, in our opinion.

In short, we think that there is no compelling need for the Federal government to support AD&D benefits through Title II, in view of the provisions of Title III. One technical point—the phrase in Title III, "killed or disabled as a result of a criminal act in the line of duty" (underscoring supplied), obviously does not constitute full on-the-job protection. For that reason, a combination of Title III AD&D coverage and privately insured, non-occupational AD&D coverage would not afford complete 24-hour protection. This gap could be filled in a variety of wavs.

Having stated to you our philosophical and practical concerns about a Federal subsidy for group life insurance for public safety officers, we can now discuss the particulars of Title II of your bill, S. 2994, as well as the alternative approach

found in S. 2995.

Each of the bills leans heavily on the language of the Serviceman's Group Life Insurance statute. That is a program which obviously works. Because S. 2995—the bill sponsored principally by Senator Kennedy—tracks that program so closely, will simply say that Title II of S. 2995 would also work, in our opinion. Further, the local option in S. 2995 to reject the Federal program in favor of existing arrangements not only gives us a chance to retain such business now on our books but, more importantly, gives local public safety officers freedom to select the insurance program which most closely fits their needs. However, the Subcommittee will wish to rely in the final analysis on the comments of the lead carrier in the SEGLI case, the Prudential.

It is more difficult to respond meaningfully to the approach of S. 2994, wherein prime emphasis would be placed on encouraging State programs of group life insurance for public safety officers. As S. 2994 is written, there would be a strong incentive for States to set up their own group life programs due to the 75% Federal sharing incentive. On the assumption that each State would do so, thereby obviating the necessity for a Federal program, we see the arrangement as undoubtedly workable, even though it would cause a disruption of our existing municipal business as units of local government were absorbed under statewide programs. Possibly, the bill could be amended to permit a State to adopt a plan under which all or a portion of the Federal sharing could pass through to existing, qualifying group life programs. This would be less disruptive of existing business but could reduce the size of the group remaining under the statewide unbrella. In a smaller State, this could cause rating problems if those remaining under the State program were of higher than average age, or if the group were atypical in other respects.

Section 203 of the bill would permit the "establishment of one or more separate or combined statewide" programs in each State. We presume this means that there could be one program for policemen, another for firemen, a third for correctional workers, etc. Such divisions could probably be accommodated by insurers although, in the smaller states, they could result in very small numbers covered with attendant higher costs. More importantly, group life and AD&D rates vary widely by age and sex composition of the group. Individious cost comparisons could arise between, say, a young insured group of highway patrol-

men and an older group of correctional workers.

We find it difficult to take seriously the possibility that Federal sharing in an amount as high as 75% could be enacted, when no such differential in costs could be demonstrated. For this reason, let us assume that a bill were enacted with, say, ¼ sharing for either a State or Federal plan, or because it will not significantly affect the discussion which follows, perhaps a slightly higher sharing, say ½, to retain an incentive for State plans. In this event, one would suppose that a good many States, perhaps moderate to small in size (would prefer the Federal program.

In such event, if a bill similar to S. 2994 were enacted, a unit of government within a State could not apply for Federal participation unless it were determined by the program's administrator that similar coverage was not available in that State at competitive costs. It is our position, as explained before, that group life and non-occupational AD&D are available at rates essentially consistent with those charged private employers. How, then, could there be a Fed-

eral program?

Within any State, there could be significant variations in the cost of existing local governmental group life programs, for the age, sex and size of group reasons advanced before. While these same variations would exist for private employers, those public safety officer groups whose group life rates were above average would look favorably upon the Federal program (whose rates presumably would be average, and thereby lower). Thus, the Federal program might be appealing to many public safety groups in a State and, thereby, the Federal administrator would be under pressure to declare that coverage was not available at competitive costs, under some strained interpretation of the Statute.

In summary, we question the need for Title II. Apart from this, we do not think there are sufficient operating advantages to a series of State plans (which might be administered in each State by one, or possibly more than one, carrier) for us to favor that approach over a Federal scheme with the right to opt out,

such as is found in S. 2995.

Attached, as Appendix A, are a few technical comments on S. 2994 and S. 2995. Also, we have worked up some cost estimates which will be found in Appendix B. We hope all of this is responsive to your letter.

Sincerely,

JAMES H. HUNT,
Director, Government Relations.

Appendix A

TECHNICAL COMMENTS APPLYING TO S. 2994 (AND S. 2995)

(1) "Sec. 500 (5) (C)"—Discretionary power is given the Administration (S. 2994) or the Attorney General (S. 2995) to identify certain activities which may be "potentially dangerous because of contacts with dangerous criminals, . . .". The possibility exists that if such activities were narrowly defined it could result in failure to secure a reasonable cross-section of risks. For example, all prison guards might be appropriate but maximum security guards only might be inappropriate.

(2) "Sec. 502 (C)"—It is not clear what amount would be payable for the loss of one eye and one member; this is obviously a remote contingency but might

as well be defined clearly.

(3) "Sec. 504"—Aetna, and possibly other carriers, does not offer conversion of the AD&D portion of a Group Life policy. The language of this section should be clarified in this regard.

Appendix B

COST ESTIMATES

We estimate that the premium for a Federal program of group life insurance (excluding AD&D) for public safety officers, averaging \$11,000 per life and underwritten on a basis similar to that found in S. 2995, would approximate 75ϕ per month per \$1000. Non-occupational AD&D would increase the rate 6ϕ to a total of 81ϕ per \$1000 per month. Twenty-four hour coverage would increase

the rate 15ϕ to a total of 90ϕ per \$1000 per month.

Under the State-by-State approach found in S. 2994, we would expect the premium for the Federally-underwritten plan to be about the same. However, in those States which took advantage of the incentive to set up their own programs, variations from the 75¢ rate would occur. Further, in any State in which the number of public safety officers dropped below approximately 10,000, the premium rate would be higher as a result of higher percentage administration expenses. The table below gives an indication of the increase in premium which would result as the size of the case decreased.

umbers covered:	increase in premium	
10,000	0	
5,000	5	
2,000		
1,000	14	

GENERAL AMERICAN LIFE INSURANCE Co., St. Louis, Mo., April 7, 1972.

Re Senate bills 2994 and 2995, Victims of Crime Act of 1972.

Mr. KENNETH A. LAZARUS,

N

Assistant Counsel, Subcommittee on Criminal Laws and Practice, New Senate Office Building, Washington, D.C.

Dear Mr. Lazarus: You will recall that on Wednesday afternoon of this week Messrs. Jerry Bales, and Ken Martin of Business Men's Assurance Company of America, and Mr. Dean Williams and I, representing General American Life Insurance Company of St. Louis, Missouri, visited with you and Mr. Thomas Rowe concerning various phases of the above Bills.

We were particularly pleased to learn that in redrafting the new Bill you expect to provide in Title II for an equalizing subsidy for private plans which

cover law enforcement officers.

We expressed to you our concern that, in view of the substantial benefit which would be provided under Title III to law enforcement officers or their families in the event the officers were killed or injured in the line of duty, there seems to be no need to further provide compensation under Title II. You mentioned that you felt that Title II was intended to do more than compensate the officers or their families where they were victims of crime while acting in the line of duty, however we question whether the popular appeal for this type of legislation would extend beyond that contemplated in Title III and we would hope that the Congress would give this further consideration before the Bill is enacted.

The question of whether the underwriter of the federal plan (Title II) should be limited to companies licensed in 50 states and having at least 1% of the group life insurance in force in the country was also discussed. We seriously question the validity or need of such a requirement and are confident there are numerous life insurance companies in the United States which could adequately underwrite and administer the program even though they are not licensed in all the

states. You suggested that New York licensed companies are more rigidly regulated and we gained the impression that you might have felt such a company could handle the business at lower premium rates. While New York licensed companies are rigidly regulated in many respects, I do not believe that the insurance departments of the other states would acknowledge for a moment that the regulation of the companies licensed by them is not perfectly adequate to safeguard the solvency of the company and to protect the rights of policyholders. The primary reason for companies to stay out of New York is the requirement of that state dealing with compensation of agents. We do not believe that a company should be obligated to acquiesce in the rules which are peculiar to New York and which we do not believe are necessary to safeguard the rights of policyholders in order to be eligible to bid on a federal program. Actually the New York regulations may tend to inflate premium rates instead of reducing them. Thus, the New York Minimum Premium statute is considered by non-New York licensed companies as establishing the basis for scaling down premium rates, resulting usually in lower rates being quoted by non-New York licensed companies than by those licensed there.

It seems to us that the Administrator, in selecting the Insurer, should not be bound by such rigid standards and that the bill might be reworded to merely authorize him to select a carrier which in his opinion would be of sufficient size,

experience and stability to ably and efficiently administer the program.

We would appreciate your giving these views your consideration and presenting them to the members of the committee when the bill is put in final form and we hope that our suggestions can be adopted.

Sincerely yours,

BEN R. SWANK.

JOHN HANCOCK MUTUAL LIFE INSURANCE Co., Boston, Mass., April 13, 1972.

Mr. G. Robert Blakely, Chief Counsel, U.S. Senate, Committee on the Judiciary, Washington, D.C.

DEAR MR. BLAKELY: Senator McClellan sent us a memorandum and various supporting papers relating to the "Victims of Crime Act of 1972" (S. 2994) which, in Title II, would establish a Federal-State group life and dismemberment insurance program for State and local public safety officers, including policemen, firefighters and correctional guards.

Attached are our answers to the questions raised with respect to Title II. Please let us know if our comments require clarification.

lease let us know it our comments require ciarincation.

Sincerely,

PAUL H. GREY, Vice President.

1. What insurance programs are generally available from private companies in the way of death and dismemberment programs for "public safety officers" as defined by S. 2994?

There are two basic types of contracts issued by the John Hancock Mutual Life Insurance Company to privide life and dismemberment programs for "public safety officers". The first type of contract covers public safety officers as "employees" within the employer-employee relationship which exists in a municipality, county, or state. The contract is written with State or unit of local government as the policyholder. Generally, this type of contract provides life and dismemberment insurance to many different classes of employees of which public safety officers is but one class of employees covered. The second type of contract covers public safety officers as "members" of an association; e.g. Patrolmen's Benevolent Association, Firefighters Benevolent Association; such contract is written with the Association as the policyholder.

These programs provide a wide range of life and dismemberment insurance protection for public safety officers. In many instances, the insurance is a flat amount for all participating public safety officers. The flat amount of insurance can range from \$1,000 to as high as \$40,000. However, the average amounts are between \$2,000 and \$10,000. Some plans have schedules of insurance for public safety officers similar in concept to the one proposed in S. 2994 and S. 2995. The amounts of insurance in these other schedules are based upon a wide variety of

factors including salary, years of service, rank and/or age.

In general, there does not appear to be any definable consistencies among all of the existing plans which cover public safety officers.

2. In typical programs, what costs must be met by those individuals as well as

units of government covered by these programs?

Typically, the cost of these programs is borne either in part or in whole by the indivduals covered. In the first type of contract described in one (1.) above, the costs are usually shared equally; half by the individuals insured and half by the units of government. In the second type of contract, the costs are borne entirely by the members of the Association by virtue of the fact that the premium is paid out of the Association's membership dues.

3. How do these insurance costs compare to those incurred by employees other than public safety officers in government and private employment in occupations

at the same income levels?

With respect to the sharing of costs, the figures presented in two (2.) above, compare favorably with those costs incurred by employees other than public safety officers in government and they are not noticeably out of line when compared with those costs incurred by employees in private employment.

4. From an insurance perspective, which would you prefer, the two-stage State or Federal program envisioned in Title II of S. 2994 or a direct Federal program or Federal subsidy of an existing state or local program as suggested by Title II

of S. 2995? Why?

In order for a group plan to be effective, it must be administratively streamlined and uniform with as much automatic eligibility as is feasible. In addition, it should be designed to eliminate as much selectively against the plan as possible. Based upon these criteria, S. 2995 is preferable. While both bills require application for coverage by the appropriate state or local unit of government, S. 2995 provides existing plans with greater financial incentive to join the federal program, S. 2994, on the other hand, provides greater incentive for continuing an existing plan. Thus, S. 2995 should result in a larger proportion of the potential eligibles being covered by the federal plan. Moreover, the 331/3% federal subsidy available under S. 2995 for the federal plan should make it unlikely that any particular unit would choose to join the federal plan solely because of its own loss experience; i.e., there would be little opportunity to select against the federal plan.

5. Do you see any long-term danger to the independence of local police forces

from the establishment of direct Federal salary-type supplements?

Historically, the introduction of federal subsidies have been followed by some increases in federal control, a fact which might create some concern in certain areas. However, the existing Crime Control Acts already provide more direct subsidy and control than either of the proposed federal assistance insurance programs. Consequently, there does not appear to be any obvious long-term danger to the independence of local police forces from the establishment of direct Federal salary-type supplements.

An alternate concern for consideration might be the possible eventuality that federal subsidies, if once authorized to state and local public safety officers for life and dismemberment, would have to be extended to other groups of local and state employees (e.g. highway workers). Such a development would cause a substantial increase in federal subsidy monies and could create friction with many of the states which feel that these employees are their exclusive

responsibility.

6. Assuming approximately one million "public safety officers" would be eligible for inclusion in the group nationally, would the program be more attractive to you under the approach of S. 2994 or S. 2995?

For many of the same reasons as outlined in four (4.) above, the general preference is toward S. 2995. In S. 2994, the 75% subsidy of state plans versus only a 25% subsidy of the cost of the federal plan would likely lead to the establishment of state plans which are more generous than the federal plan and at a cost to the state and public safety officers which is lower than the federal plan. This development would seriously reduce the potential participation of the approximately one million public safety officers who would be eligible.

There is an additional consideration. To the extent that the benefits obtained by public safety officers under a 75% subsidized state plan are superior to the benefits for other state employees, there could be considerable dissatisfaction among other employees. The result could be a sizable increase in cost to the state

to equalize the benefits for all employees.

7. Can you estimate the cost per thousand dollars of insurance coverage under each of the alternative approaches, assuming the average policy will be \$11,000?

A cost can be estimated by developing an assumed "average age" factor for each plan. Although the potential enrollment under both S. 2994 and S. 2995 is large enough that the average age under each plan could be identical, conceivably under S. 2995 the greater financial incentive to join the plan at all age levels, could create a lower average age than S. 2994. For example, if S. 2994 had an average age of 37, S. 2995 might have an average age of 35. Under these assumptions, the monthly rate per \$1,000 of life insurance under S. 2994 would be \$.48, and the rate per \$1,000 of life insurance under S. 2995 would be \$.46. Other examples of average age monthly costs are as follows:

Average age of 30—\$.43 per \$1,000. Average age of 40—\$.54 per \$1,000.

Since the accidential death and dismemberment rate is not a function of age, it would be the same for both plans; i.e., approximately \$.13 per month per \$1,000.

8. Is one alternative more realistic than the other in terms of administration;

e.g. number of collection points involved?

At this time it appears that there is enough flexibility in the language of the two bills to make no appreciable difference. However, administrative expenses "per unit" should generally decrease as the number of persons covered increases, particularly if the increase comes from the inclusion of some of the larger urban groups. On this basis, S. 2995 could probably be considered "more realistic".

9. How many insurance companies would be prepared or eligible to handle each

of the proposals?

The proposed law requires that the primary insurer be a company that is:

(a) Licensed to issue life insurance in each of the 50 states of the United States and in the District of Columbia, and

(b) has in effect at least 1% of the total amount of group life insurance which

all life insurance companies have in effect in the United States.

John Hancock is one of the *ten* insurance companies which meets both of these two requirements to be primary insurer. For reasons of equity, three of these companies might be regaded as less "entitled" than othes by reason of the fact that they have already been chosen to administer a Federal government-related group insurance program. Because a Connecticut, New Jersey, and New York insurance company have already received such recognition, fair disposition of government contracts should entitle preferential consideration to eligible companies in other states.

10. From an insurance perspective, should all of those currently covered by the term "public safety officer" be included in the same program? Or would it be advisable to set up separate programs for each separate category of "public

safety officer"?

The establishment of separate policies would result in an administratively more expensive plan. Therefore, initially, it would be advisable to maintain one

policy for all those currently covered by the term "public safety officer".

However, at some time in the future, consideration should be given to modifying and refining the program in the direction of separate plans. A possible reason for considering separate programs (under one policy) would be to avoid the anti-selection which would result if the amount of federal subsidy were insufficient to make the program attractive to the group with the lowest average age and the lowest additional mortality costs. Another possible reason for separate programs would be to have the flexibility to provide different schedules of insurance for each category of "public safety officer" if Congress decides some day that there are reasons therefore.

11. Can the draftmanship of either proposal be improved to simplify the sub-

sequent writing of a policy or policies?

In S. 2995, a clarification could be made in the wording of Section 502 (C) under the headings "Loss" and "Amount Payable". As it reads now, it is somewhat unclear as to what amount is payable for each of the losses specified. The wording employed in Section 501 (c) of S. 2994 under the heading "Loss and Amount Payable" is much clearer in meaning. We would like to suggest that the following wording be added at the end of Section 501 (a) of S. 2994 and at the end of Section 502 (a) of S. 2995: "and (3) provided 75% of all public safety officers employed on a full-time basis by such State or unit of local government are insured under the policy of insurance."

We would also like to suggest that the first sentence of Section 511 (b) of S.

2995 read as follows:

"If there is an affirmative vote of a majority of such officers to continue in such state or local program and other requirements set forth in sub-section (a) are met, or if the requirements of Section 502 (a) cannot be met, a State or unit of local government will be ineligible to participate in the Federal program but may apply for Federal assistance for such state or unit of local government for group life insurance under such rules and regulations as the Attorney General may establish."

Lastly, we would like to suggest that Section 504 (b) (2) of Title V be replaced

in its entirety with the following wording:

"No insurance shall become effective until at least 50,000 public safety officers of one or more participating states or units of local government are enrolled for insurance under this Act. Subject to this requirement, the insurance provided for under this Act shall be placed in effect for the public safety officers of any state or unit of local government participating in the public safety officers' group life insurance program on a date mutually agreeable to the Attorney General, the insurer or insurers and the participating state or unit of local government."

In comment to the above, we would like to say that most State Insurance Laws, as well as sound underwriting principles, dictate the 75% enrollment requirement on individual employer units insured under a multiple employer group policy. The minimum requirement of 50,000 lives ensures from the inception of the program that the participation of at least some larger state or units of local government and, in addition, reduces possible anti-selection and minimizes

administrative costs per employer unit.

It would appear that the Federal subsidy for existing plans could create massive enrollment problems; to ensure optimum participation in LEGLI, consideration might be given to eliminating entirely the Federal aid to existing plans of states and units of local government.

A more specific definition of "full-time public safety officer" is needed for

reasons of clarification and refinement of cost estimates.

In conclusion, we would like to indicate that it would be highly desirable that the Department of Justice or some other government agency, rather than the insurer, assume:

(i) enrollment accountability,

(ii) responsibility for certification of claim eligibility, and

(iii) premium collection from the state and units of local government; each of the estimated 40,000 units would be responsible for premium col-

lection from its own law enforcement officers.

We would suggest that separate premium rates be developed, under the Federal plan, for each participating state or unit of local government. Initially, such separate rate would be based on the age distribution of the particular unit; thereafter, the separate rate would be a reflection of the claim experience of each participating state or unit of local government.

12. Please add any additional comments you desire including comments on the

actuarial soundness and feasibility of the proposed program.

Actuarial soundness is a function of securing adequate participation of a cross-section of those eligible which matches the assumptions made in determining the rate of premium to be charged. This implies having a plan which is administratively feasible. It is the implementation of an adequately controlled administrative operation which will be the most difficult part of such a program, involving as it does so many different governmental units, each of which has its own modus operandi.

We believe that John Hancock has the special qualifications for this assignment and is considerably ahead of the several other major group insurance carriers that are legally eligible to serve as prime insurer. This claim is supported,

in part, by the following considerations:

a. The John Hancock is one of the leading companies in the insurance industry. It is a Massachusetts company, incorporated in 1862; the Company's assets as of December 31, 1971 were \$10.604 billion. Total insurance in force, including Group and Ordinary, was \$64.8 billion.

On December 31, 1971, John Hancock operations involved approximately 23,000 employees located in Boston and in 700 sales and claim offices throughout the

United States.

b. The proposed program for public safety officers must be handled by the most modern data processing methods. The John Hancock has been a leader in electronic data processing development and has been in the forefront of all insurance companies in applying modern equipment to day-to-day operating problems.

c. The John Hancock has had direct experience in administering group insurance programs for large employers through separately maintained and cost accounted offices. One such office is that maintained by the Company in Dearborn, Michigan, where the \$4 billion total Ford group life insurance plan is administered. This program covers 300,000 employees.

d. The John Hancock has both the required facilities and the highly-trained and matured staffs of professional, technical and administrative personnel needed

to handle the particular tasks involved in this program.

e. The John Hancock has specialized in underwriting and administering "multiple employer" group insurance business. As a result, the Company is uniquely qualified to serve as primary insurer for this program, which potentially involves public safety officers employed by some 40,000 units of state of local government.

In summary, John Hancock is most anxious as an institution to undertake the assignment of primary insurer. Being a mutual company, we are dedicated to a sound insurance operation, optimum service to our policyholder, the Department of Justice, and the public safety officers who will be insured under the LEGLI program.

[Specimen letter to professional commentators]

 $\begin{array}{c} \text{U.S. Senate,}\\ \text{Committee on the Judiciary,}\\ \text{Subcommittee on Criminal Laws and Procedures,}\\ Washington, D.C., December 21, 1971. \end{array}$

Enclosed is a copy of a bill, S. 2994, the "Victims of Crime Act of 1972" and my remarks on its introduction. Title I of this proposed legislation would establish a Federal program to meet the financial needs of the innocent victims of violent crime.

Aware of your interest in the concept of crime compensation as expressed in

your article: (cite to article).

I would appreciate your analysis of, and commentary upon, this measure.

It would be most helpful to have your response by January 21, 1972. Any questions may be referred to the staff of this Subcommittee at Area Code 202, 225–3281.

With kindest regards, I am Sincerely yours,

JOHN L. McCLELLAN.

Commonwealth of Pennsylvania, Insurance Department, Harrisburg, January 11, 1972.

Hon. John L. McClellan,

U.S. Senate, Committee on the Judiciary, Washington, D.C.

DEAR SENATOR McClellan: I would like to congratulate you for introducing Bill S. 2994, the "Victims of Crime Act of 1972," and to thank you for your re-

quest for comments on this proposed legislation.

As indicated in my article published in the *Insurance Law Journal* entitled "Compensation for the Victims of Crime: Justice for the Victim as well as the Criminal," I favor the concept of compensating the victims of crime. And I favor your proposed implementation by Bill S. 2994.

I would offer a few technical improvements for the Bill, as follows:

1. Medical expenses should include the costs of rehabilitation: "all appropriate and reasonable expenses necessarily incurred for physical and occupational

therapy and rehabilitation." See your Sec. 450(10) (A).

2. Your coverage of medical and hospital expenses might be improved by covering "all appropriate and reasonable expenses necessarily incurred for medical, hospital, surgical, professional nursing, dental, ambulance, and prosthetic service." See your Sec. 450(10(A) (1) and (2).

3. You may want to limit loss of earnings to a maximum monthly amount

such as \$1,000, or 85 percent of monthly earnings at the time of injury.

4. The Board should have clear authority to make periodic payments over a long period of time. Serious injury may require a stream of payments over many years.

5. Should Sec. 458(3) specify "assault and battery" rather than simply "as-

sault?" Also Sec. 485(1)?

6. I see no reason why qualified state programs under Part B must be based on "financial need." See Sec. 106(1). If the state wants to follow a social insurance approach and pay without regard to need, it should be able to do so.

Thank you for your attention to this matter. If I can be of any further help, either as Insurance Commissioner of Pennsylvania, or as a private citizen, please

feel free to call on me.

With best regards, I am, Sincerely,

HERBERT S. DENENBERG.

NORTHWESTERN UNIVERSITY, School of Law, Chicago, Ill., January 3, 1972.

Re Compensation for criminally inflicted personal injury.

Senator John L. McClellan,

Chairman, Subcommittee on Criminal Laws and Procedures, Committee on the Judiciary, Washington, D.C.

Dear Senator McClellan: Thank you for asking my comments upon S. 2994. I am of course delighted that you and the several other distinguished senators have introduced the bill. Since my writing in this area from 39 N.Y.U.L. Rev. (1963-64) has been concentrated on your Title I, I will restrict my comments

here to that subject.

Apart from a technical point which I will make last, my disappointments with your bill are old ones. When I was helping draft the New York bill we felt confident that your Section 464 (a) and (d) would not be amended to your present form. After the bill had passed, we were mortified to discover that, at the last minute and unbeknownst apparently to anybody, Rockefeller had inserted the need test and the family exclusion into a substitute bill. The only explanation to come from his office was that these restrictions were fiscally necessary. But that was nonsense then and still is. Experience has shown in all the programs without fail that relatively little money is involved from government's point of view, even if in individual cases the money means an enormous amount to the recipients. I would like to comment on the two points in turn.

First, the need test. No one has even suggested a reason why "society's moral obligation in this area," as you put it on introducing S. 2994, runs only to the poor. It has always seemed to me that society's obligation to protect the citizenry, and to pay attention to those citizens whom it fails, runs with an even hand

to the poor, middle and rich alike.

Moreover, this program is an excellent vehicle for showing the middle class in this country that government cares for them, too. I strongly urge you to

eliminate Section 464 (a).

The family exclusion question is best framed, I think, by asking whether anything beyond Sec. 457 (c)'s limitation is needed. Those family members who provoke, or are in part responsible, for the violence should of course be dealt with as Sec. 475 (c) provides. But I would suggest no more is needed. If a father shoots and disables a small child, surely that child is as deserving as a child who lives next door. The elimination of the family exclusion would as a child who have heat door. The elimination of the family execusion would require other safe-guard provisions. I believe adequate ones are set out in my article in 39 N.Y.U. Law Review. I hope your staff will carefully consider this matter and make recommendations to you.

Finally, a more technical matter. I do not think you really want the strict statute of limitations now in Sec. 464 (b). What of, for example, disappearance cases? I suggest you append a slightly revised version of the final clause in 464 (c) to 464 (b): "... unless the Board feels that the failure to apply was justified by good cause."

Thank you for inviting my comments. I would be pleased to comment further should you so desire.

Yours sincerely.

Robert Childres, Professor of Law.

DEPARTMENT OF URBAN AFFAIRS, Columbus, Ohio, January 21, 1972.

HON. JOHN L. McCLELLAN,

Senator, U.S. Senate, Committee on the Judiciary, Subcommittee on Criminal Laws and Procedures, Washington, D.C.

Dear Senator McClellan: I want to thank you for your correspondence of December 21, 1971, and, particularly, for the opportunity to comment upon S. 33, S. 1946, and S. 2994. Although I am not the Executive Director of the Ohio Department of Urban Affairs, as Deputy Director of the Ohio Department of Development, I am in charge of this State's Planning Agency for the law enforcement and criminal justice field. In that capacity, as well as that of a private citizen, I am vitally concerned with the serious and frequently heartbreaking consequences of criminal victimization.

The three Bills, which the Senate is considering, evoke a variety of responses, some philosophical, some operational, and, in order to make my comments as cogent as possible, I would like to deal, first, with the details of each Bill in the order of their presentation. The opinions expressed are my own and do not necessarily represent the opinions of our Governor or, even, of colleagues within the Department of Urban Affairs. I would hope, of course, and do suspect, that my opinions are not so incredibly unique as to engender no sympathy or commonality of viewpoint. Nevertheless, whatever I express herein must be read as comments of a personal nature.

S. 33-MR. KENNEDY

S. 33 would, if I understand it correctly, establish a national insurance program for law enforcement officers, to be administered, for all practical purposes, by insurance companies selected by the Attorney General. Rates would be determined by age and the limit of benefits would be determined by salary.

In all candor, I do not find great merit in the Bill, which appears to have more characteristics satisfactory to the insurance industry than to the law enforce-

ment field.

First of all, in Section 4, the requirement that the individual officer pay his own premiums will effectively limit the numer of officers and departments which will be able to participate. In Ohio, for example, there are about 15,000 full-time law enforcement officers: the overwhelming majority of them are family members, earning below \$10,000 per year. As badly as they need the benefits, many will not enroll, and for purely economic reasons. Parenthetically there is no provision for governmental subdivisions to pay the premium, as a fringe benefit,

under this Bill, should they choose to do so.

Secondly, in view of the unlikelihood that high-ranking officers will be killed or maimed in the line of duty, with the same frequency as lower-paid, line patrolmen, the schedule of benefits is somewhat illusory. A straight \$15,000 death benefit, with accidental death and dismemberment features, would probably result in higher settlements than those proposed in Sec. 4(b). Further, it is disappointing to note in Sec. 4(c), the typical insurance policy language of dismemberment. What is there for the man who sustains a substantial injury to his hearing, vocal cords and other internal organs? He would not, so far as I can see, qualify for anything, under this policy. While the losses of sight and limbs are extremely serious, in terms of a person's ability to earn a living and lead a normal life, they are not the only injuries that impinge upon those activities, particularly when caused by lethal weapons.

Lastly, with regard to S. 33, I would say that the dual administrative costs of the insurance companies and the federal government, must inevitably be reflected in increased premiums. If Congress wishes to provide special insurance benefits to law enforcement officers, a sentiment, by the way, with which I am in accord, why not structure it through the Social Security Act? The administrative machinery already exists: local pension programs should offer no serious bar; the 200–500 annual claims should not overtax the existing capability of the Social Security Administration. There is, in addition, no really good reason why the Attorney General should have to administer and regulate an

insurance program.

In conclusion, while I favor the sentiment of S. 33, I have serious reservations about its provisions.

S. 1946-MR. HUMPHREY

Essentially, the difference between this and S. 33 is the inclusion of firefighters. My agreement with the motivation and disagreement with the Bill's provisions are identical with my comments relating to S. 33.

S. 2944-MR. M'CLELLAN, ET AL.

Title I of S. 2994 addresses, for the first time, a disgraceful omission in our enunciated national priorities. Given the violent nature of criminal activity in this country, when compared with other nations, the lack of concern for victims of violent crime is incredible. I am, therefore, pleased to see that this serious and pressing inequity is under Congressional review. Title I, in my estimation, is well drafted and merits favorable consideration. The concept of a Violent Crimes Compensation Board appears to be a reasonable way to determine the validity of claims and the amount of compensation. Elimination of those claims in which the claimant seeks compensation for his own wrongdoing does much to eliminate the greatest single source of abuse. The \$100-\$50,000 constraints also appear to be reasonable.

There are, nevertheless, several issues which I would pose:

1. Section 450 (10), would fail to take in one kind of situation which, I believe, might be significant. Let us say that a pensioner is robbed on the street and injured to the extent that he can no longer live alone even though fully recovered from the affects of the injury. There might be the need to provide for living expenses, even though he experienced no loss of earnings. It could become a serious financial hardship for his family; no less, in its effects than the payment by

them for medical expenses.

2. The next point, which I would raise, relates to Section 464(a). It is my considered judgment that the phrase "undue financial hardship", is likely to give rise to considerable litigation and commentary. While statutory guidelines may not be in order, it seems to me that language other than "undue financial hardship", might more specifically earmark those kinds of hardships which the Congress did seek to ameliorate. As an observation, I would say that victims of crimes, who seek redress under this Act, should not have to prove that they are now penniless or bankrupt, as a result of the injury, in order to recover compensation. Such a result, while eliminating close questions of compensability, could make a mockery of the intent of the Act and create understandable resentment on the parts of the applicants.

3. Section 465, provides for the deduction of compensation from the amount of the award, if the applicant receives compensation from other specified sources. There is no provision, however, as to how these other benefits are to be treated if they are monthly payments and the compensation ordered under this Act is lump-sum settlement. In that same regard, it would seem to me that Section 468 should be expanded to exclude benefits from voluntary institutions and pension

programs.

4. While I applaud the expansion of Title II, of the Bill to include National Guards, my objections to S. 33 would nevertheless, be applicable herein. The issues of premium payments; greatest benefits to those least likely to suffer; increased administrative costs; and limitation upon injuries to be compensated, all seem to be uncorrected in Title II of S. 2994. It is, of course, softened by Title III, which, in my judgment, precludes the necessity for Title II's inclusion in the Bill. In other respects, I find S. 2994 to be a Bill to which I could wholeheartedly subscribe.

Again, I wish to take this opportunity to thank you for soliciting my comments. If I can be of any further service to you or the Subcommittee, please do

not hesitate to contact me.

Very truly yours,

Joseph L. White, Deputy Director.

NORTHEASTERN UNIVERSITY, Boston, Mass., January 3, 1972.

Hon. John L. McClellan,

Subcommittee on Criminal Laws and Procedures, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR SENATOR McCLELLAN: As I promised in my letter of December 29, 1971, may I take the liberty of submitting to you my comments upon your Bill of S. 2994, the "Victims of Crime Act of 1972", as follows—

First of all I wish to offer to you my heartiest and most enthusiastic congratulations on your preparing and proposing this Bill to correct one of the most important yet most neglected segments of our criminal justice system. Compensation to victims of crime, and in general the understanding and recognition of the significance of criminal-victim relationships, somewhat popularly called "victimology", represents a rapidly growing field of criminology; it has experi-

enced a fast development of its literature and research projects aiming at reducing victimization risks and, thus, at reducing the crime rate. The first major recognition of this complex problem was reached in 1970 in Madrid, Spain, where the quinquennially organized International Criminological Congress devoted a whole session to the variety of questions raised by what is called "victimology", and I had the privilege of chairing the entire session. 1973 will be the year when in Jerusalem, Israel, the first five-days-long "International Victimology Congress" will be held, and since I am one of the five-member International Advisory Board of the Congress, I will be indeed proud to report the successful passing of your momentous and climactic Bill.

Your introduction of the Bill is a brilliant and convincing piece of work. Your historical references are correct; maybe, if additions seem to be necessary, you may wish to consult my book (COMPENSATION AND RESTITUTION TO VICTIMS OF CRIME, I sent you a copy along with my letter of December 29, 1971), mainly with reference to the institution of "composition" in the Middle Ages—actually and ideal basic version of the present day "compensation" with a heavy flavor of reforming or correcting the offender himself. Your praise of the English compensation system gives me a modest pride since I am the one who made the original research for the British Government (see the Home Secretary's "White Paper" submitted to the British Parliament in February 1959)

which has also been used by the Government of New Zealand.

In your Bill, Titles II, III and IV need no specific comments, they only deserve the highest commendation. Their guiding ideas are quite unique and should receive the expression of warm and firm approbation. The protective aspects of Titles II and III not only guard against the economic harm caused by violent crimes, but, at the same time, are also apt to invite those right men to the law enforcement agencies and correctional personnel who might have been reluctant to accept financial hazard involved in these jobs. Title IV is no less praiseworthy in the combat against the ever increasing racketeering activities of which so many of us are victims—left without remedies.

Concerning Title I of the Bill, perhaps the most important part of this legislative measure, permit me to call your attention to my current ongoing research on the operation of the victim compensation system in the Commonwealth of Massachusetts, where I have reached two important preliminary findings (which,

or course, may change shape in the final analysis!):

(a) of those in charge of directing the system not all are fully familiar with the general findings on the criminal-victim relationships, nor with the history, research results, achievements and prospects, possibilities, and existing

schemes of victim compensation, and

(b) of those in charge of informing victims of violent crimes about their right to apply for compensation and of assisting them in their applications many are not living up to these basic duties; this may be the reason for the relatively low number of applicants (in discrepancy with the number of violent crimes) and of the fact that the great majority of the public is not even aware of the

existence of the compensation system.

These experiences warrant to advise the Board, to be established by your Bill, to employ expert advisors or consultants extensively, mainly in the beginning period of its operation, in order to secure the expertise of specialist persons knowledgeable in this field who could assist the smooth and proper functioning of the system. If my interpretation is correct. Sec. 453 makes the appointment of such advisory committee or experts possible. Also, as far as my other experience is concerned, may I suggest to give this forthcoming legislative measure the broadest possible publicity. May I also respectfully recommend that in Sec. 470(a) the duty of giving information should be made an obligation under penalty, and that in Sec. 464(b) and (e) the deadlines set for the victim should be waived in case of missing the duties as described in Sec. 470(a): on the other hand, this duty, may I recommend, should be applicable to all safety officers, courts, hospitals and medical doctors who so often meet victims of violent crimes.

Another recommendation I take the liberty to submit concerns Sec. 467 with regard the "recovery from the criminal". In my views it is an excellently drafted article of the Bill, and if I suggest an addition to it, it is only a proposition of considering my idea of a "punitive or correctional restitution" as outlined on pp. 123-135 in my COMPENSATION AND RESTITUTION TO VICTIMS OF CRIME (Montclair, N.J.: Patterson Smith, 1970). However, if my idea of an extended concept of compensation, the punitive or correctional restitution, something the offender must perform himself and not something done for or to him, would not be an acceptable addition to (or instead of) Sec. 467, may I

recommend this section to be modified. I recommend this modification in terms of imposing penalty upon the criminal in cases where the offender was already found guilty in the given violent crime, yet, except his hardship situation, he resists compensating his victim and thus forces the Attorney General to institute Court action against him.

In general, may I wholeheartedly welcome your decision for the Board system which proved to be far better and more efficient than other known schemes, and which, though not making the compensation entirely a part of the administration of criminal justice, clearly takes it out from the often clumsy and slow civil tort procedures. It reminds one of the Swiss solution (actually the first victim compensation system in our century) where compensation is neither civil nor criminal

in character and is awarded in an independent procedure.

My only reservation against the Swiss scheme and, if I may take the liberty of making respectifully this comment, also against your Bill, is that both are applicable only where the victim is in need and the offender appears to be insolvent and unable to satisfy the victim's claim for damages for the result caused by his violent criminal offense. Of course, your Bill is still definitely different from the rather weak Californian welfare type compensation system (something I would strongly oppose) in which the operation of indemnification was placed in the hands of the State Welfare Department and the statute does not even use the terms "compensation" or "restitution" but "said". The Californian principle of "need" tends to identify such law in the public mind with charity rather than with

legitimate payment of one's due.

To some very slight extent the introduction of the concept of "financial hardship" in Sec. 464(a) in applying the "limitations upon payment of compensation" is reminiscent of those schemes with the welfare flavor. It makes a financial stratification between man and man, and it appears to conflict with our general principle of equality where, for example, in our care for the senior citizens the same social security is paid to the aged regardless whether the person is a multimillionaire industrialist or a pennyless streetsweeper. The concept of "financial hardship", left to the consideration of the Board, may lead to unnecessarily long procedures and complicated debates with a cumbersome and often dubious presentation of evidence, and arguments over what hardship should really mean. The consideration of "all of the financial resources of the applicant" may mislead the judges of this "hardship", unless the law offers immediate interpretation; it may be, for example, as sometimes is the case with an immigrant who arrived in this country say ten years ago, that this person has a decent salary but is sixty years old and has practically nothing for his later years, and this latter aspect (as it always happens in other cases where his financial status is evaluated) is not taken into consideration when defining what his hardship means.

In order to make Sec. 464 really perfect, may I respectfully propose the removal of the hardship-clause by providing compensation unconditionally for all. This

would, in my views, result in:

(a) making justice to the principle of equal opportunities,(b) avoiding arguments over the meaning of the concept,(c) helping the procedure to be faster and more efficient,

(c) helping the procedure to be faster and more efficient, and (d) divorcing the Bill from the charity or welfare climate, and making it a law clearly expressing the "society's moral obligation" (as you so rightly said on December 11, 1971, in

introducing the Bill).

These are my immediate reactions to the Bill which may be submitted to some modifications based on experiences while in actual operation. As it stands now, let me say it again, it should be accepted as a crucial, vitally important, most constructive, and memorable milestone in our efforts to improve our criminal justice system and to protect the members of this society; only praise and loud commendable should be its share.

In case if you think I can be of any further assistance, please do not hesitate to call upon me at any time: please be assured that I am already to be at your

disposal with all my efforts.

With warmest wishes to yourself and the members of your Committee personally, and for the success of your Bill, I am

Sincerely yours,

STEPHEN SCHAFER, ociology and Criminology

Professor of Sociology and Criminology.

P.S.: In addition to my COMPENSATION book, you may be interested in my THE VICTIM AND HIS CRIMINAL, and along with three reprints on the compensation problem permit me to enclose a copy of this book too herewith.

Pendleton, Ind., November 30, 1971.

Subcommittee on Criminal Laws and Procedure, New Scrate Office Building, Washington, D.C.

Dear Sirs: I am pleased to have this opportunity to make a statement pertaining to the subject of compensation for victims of criminal acts and related matters. In order that my opinions below may be properly weighed, it should be noted that I teach at a high school inside the walls of the Indiana Reformatory and that I am in charge of all staff development and training programs in that institution. I am also a second year student at the Indiana University Indianapolis Law School and an associate editor of that school's law review. However, the opinions expressed in this statement are my own and do not

necessarily represent the views of either of the above institutions.

A burglar who is injured by a trap intended to protect a home can be compensated for that injury. Robbers, rapists, and killers are provided free academic and vocational schooling during incarceration. One accused of arson can have, even if he cannot afford it from his own resources, an attorney to defend him. One convicted of assault with intent to kill retains a civil right to personal security, even during imprisonment. All this is as it should be. Indeed, it has been convincingly established that much more should be done to help these criminals. (See e.g., Comment, 60 GEO. L.J. 225 (1971); 117 Cong. Rec. E11272 (daily ed. October 26, 1971) (reprint of a statement by the Committee on Public Justice); 117 Cong. Rec. E11200 (daily ed. October 21, 1971) (reprint of a speech on prison reform given by Representative Anderson); 117 Cong. Rec. S16622 (daily ed. October 20, 1971), (remarks of Senator Burdick).) A few recent statements such as Sostre v. Rockefeller and Landman v. Royster indicate that the courts are beginning to understand that prison inmates are human beings who have certain inalienable rights. What is particularly disturbing, however, is that legislators have not had the insight to attempt—except in a few rare instances—to do justice to those who fall victim to criminal acts. The law is now beginning to demand more aid and protection for criminals, and rightfully so; but the law of almost every jurisdiction fails to assist those who are physically, emotionally, and economically plundered by the criminals. The gross inequity of this fact screams for immediate redress.

No form of compensation can make whole a family which has had one of its members victimized by a rapist or a murderer. This does not mean, though, that compensation is not justified. The poor and the culturally deprived are the ones most struck by crime, and studies have indicated that nearly 75% of the victims of crimes suffer economic loss—not to mention the irreparable emotional and physical damage. A truly "just" system of criminal justice should try to assist those whom the state has failed to adequately protect. Prevention of crime, of course, is the goal; but, whenever this goal is not met, monetary compensation

to its victims seems not only fair but essential.

The bills which would provide benefits to the survivors of police officers, prison guards, and firemen killed in the line of duty are also justified by reasoning implicitly from the above statements. However, I think legislation in this area should be broadened to cover those who are called to assist the above workers in their duties. Prison guards are not the only correctional workers, for example, who might be caught up in the fury of an Attica-type rebellion.

Your subcommittee is about to decide the fate of a number of people who might either be innocent victims of crimes or revolutionary assassinations or riots. I pray that each committee member will weigh his responsibility to those who support criminal justice at least as much as what the responsibility is to the offenders. If that is done, the Congress should approve of both forms of legislation supported by this short memo.

Respectfully submitted,

NILE STANTON.

Remarks on S. 2994

As S. 2994 accurately indicates, there has been a great increase in crimes of violence throughout the United States in recent years. Between the years 1965 and 1968, for example, the rate of violent crimes against persons rose over 71 percent. The risk of becoming a victim of serious crime increased 16 percent in 1968 alone with over two victims per each 100 inhabitants. Since the advent of

the Sixties, the percentage of violent crimes against persons has increased 106 percent! The National Commission on the Causes and Prevention of Violence, in their final report, declared the 1960s to be one of the most violent in our country's history, with a rate of violent crime 300 percent greater in 1968 than it was in 1933. Due to the additional fact that police solutions of serious crimes have declined 32 percent since 1960, and that the rate of conviction for serious crime is only six percent, strong incentive exists today for some program to assist those unfortunate enough to have become victims of violent crime. (Citations to the above can be found on page 92 of my article, Compensation for the Criminally Injured Revisited: An Emphasis on the Victim?, 47 Notre Dame Lawyer 88 (1971).)

Compensation to victims of crime is hardly a new concept, but dates back at least to the days of Hammurabi, circa 2380 B.C. Throughout history, societies have attempted to make whole the victims created by violations of their codes of behavior. Unfortunately for modern society, these attempts were not segregated from the criminal process, but were an integral part of it. As Western civilization advanced, the eighteenth century witnessed a dramatic separation of the criminal and civil law, wherein the victim was no longer allowed to be financially interested in the trial of his offender, and his recovery was relegated to the tort process. Due to the criminal process, which often left the offender impecunious or imprisoned, attempts at evasion, and the fact that so often the offender was financially unable to compensate his victim, this class of society so directly affected by the criminal act was left without a remedy. In terms attributed to Jeremy Bentham in the eighteenth century, and Senator Mike Mansfield in 1971, society has an obligation to compensate those who were not protected by its laws which prohibit such crimes against persons.

Since New Zealand passed its Criminal Injuries Compensation Act in 1963, many nations throughout the free world have passed similar protections aiding the victims of crime. Since the advent of this serious consideration for compensating the victims of crime, seven states in this country have promulgated laws establishing such systems, and several other states have measures pending in their legislatures. (For a compilation of these measures, see 47 Notre Dame Lawyer 88, 103–113, and Appendix.). From 1965 until the present time, many attempts have been made to introduce such needed legislation into the federal structure. However, up until now, none have survived committee. S. 2994 is a bold attempt to place this needed legislation in our federal law and deserves immediate and full consideration. Through its system of federal grants to the states, there is the opportunity to invite all states to participate in this worthy effort to compensate the victims of crime so often left without other remedy.

This new proposal draws heavily on the experience of other nations having such programs, as well as our own states. It has the advantage of almost ten years of observation of their successes and failures, and can thus adequately draw the best from each. S. 2994 provides for a controlling authority called the Violent Crimes Compensation Board, consisting of three appointed members serving eight-year terms. This Board would have the power to compel the attendance of witnesses and the production of documents from which decisions could be reached on the merits of compensation. Proof of final criminal conviction would constitute conclusive evidence that the offense had been committed, thus preventing collateral attack on the finality of the criminal conviction. Anyone with a substantial interest would have the right to be heard. The order of the Board would be subject to judicial review. The victim under this type of program would be limited to compensation for personal injuries caused by the commission of a violent crime. In awarding compensation, the Board would become subrogated to the rights of action the victim might have had against the offender.

S. 2994 has many advantages over other federal proposals previously considered or now under review, as well as some weaknesses. The fact that it amends the Omnibus Crime Control and Safe Streets Act of 1968 may be an advantage over a completely new enactment as far as its chances for passage. Unlike S. 750 which establishes a separate agency, S. 2994 provides for a Board within the Justice Department. This gives the Board a strong arm to enforce its own mandates, unlike the Commission proposed under S. 750, which relies on the Attorney General. Section 456 provides for more elaborately defined procedures than does section 206 of S. 750, thus eliminating an element of confusion as to the Board's function. I would suggest a subtitle "Awarding Compensation" to precede section 457 to enhance the logical division of the Act. Under section 457(a),

an order based "on a preponderance of the evidence", as most state enactments are worded, is superior to the use of the word "discretion." Under (b), I would suggest a separate category providing for compensation to one injured while attempting to prevent a crime or apprehend a criminal. Both New York (N.Y. Exec. Law § 631 (1966)) and Maryland (Md. Ann. Code, art. 28A, § 12 (1968)), have such provisions. Under (c), after ". . determining whether to order a payment under this section . . .", I would add "or the amount of any award", as seen in S. 750 301(d). This would enhance the following language which explains that awards may still be made although there has been involvement in the crime on the part of the victim. Improper wording of this preface has caused confusion in some jurisdictions as to the possibility of reducing an award rather than eliminating it for the victim's involvement.

Section 461 apparently limits the maximum payment for attorney fees to be \$1000 by use of 18 U.S.C. 3006A. I would suggest a percentage basis as an alternative, or merely allow the Board to decide whether the payment for representation was excessive. This change would help to assure adequate legal representa-

tion for all victims.

Section 462 has apparently disallowed pain and suffering as part of the compensation as was provided for in S. 750 section 305(4). If this is the case, it may be a good idea due to New Zealand's experience as to its expense. But unlike our court structures, the Board determines all cases, and thereby provides for uniformity in the decisions, and thus some control on such awards if they were to be given.

Under section 463, judicial review of the Board's decision is taken into account. Previous federal proposals such as S. 2155, 89th Cong., 1st Sess. (1965), and some presently existing state laws provide for finality in the decision of the agency. This denial of judicial review has raised questions as to a denial of due process.

See 47 Notre Dame Lawyer 88, 106 n. 126 (1971).

Section 464 provides that awards are limited to those victims suffering undue financial hardship. Due to what I feel is an inability to define what constitutes "financial hardship" in our society on an individual basis, I strongly disapprove of this inclusion and prefer the language contained in S. 750 section 307. I believe the award should constitute not a gratuity but a legal right under a social insurance program to be utilized by all citizens when injured.

[I]f we are to accept the theory of indemnification as opposed to aid, the plan should undiscriminately encompass all citizens and be fully severed from any welfare philosophy. Thus the vital issue is whether we want socialized criminal loss insurance or merely a program of public assistance. Hybrid substitutes do no more than create expensive and needless administrative procedure. 4 Harv. Legis.

127, 129 (1966).

See 47 Notre Dame Lawyer 88, 97, 118, n. 103, n. 121 (1971).

Also under section 464, (d) excludes the family of the criminal from coverage. While in most instances this may seem entirely proper, would it not be best left to the Board's discretion? See Floyd, Massachusetts' Plan to Aid Victims of Crime, 48 B.U.L. Rev. 360, 364 (1968). Subsection (f) provides the maximum award to be \$50,000, but does not indicate whether it is to be a lump-sum award or periodic

payments. This point is in need of clarification.

Section 465(f) provides that insurance benefits are to be deducted from the award. Besides the gut reaction against awarding only the uninsured, this theory seems totally opposed to the evidentiary principles of the common law. The constitutionality of such provisions has also been raised. See 47 Notre Dame Lawyer 88, 110 (1971). Within this section I would also suggest a provision directly awarding payments to institutions providing services to victims, such as hospitals and mortuaries. Experience has shown that often victims do not fulfill their financial obligations. This type of provision has recently been recommended in Hawaii.

47 Notre Dame Lawyer 88, 108 n. 139 (1971).

Section 466 provides for emergency payment preceding an award when undue hardship may result without such assistance. This is a much needed provision based on the experience of the states participating in the compensation scheme. However, a ceiling to the amount of the award, such as the \$500 provided by New York would seem necessary, N.Y. Exec. Law § 630 (1966).

New York would seem necessary, N.Y. Exec. Law § 630 (1966).

Sections 467 through 469 and section 104 of 18 U.S.C. § 3597 providing for the formation and maintenance of an indemnity fund are extremely important

innovations. First, this scheme provides a fund to collect and pay out awards to victims. Secondly, by identifying the fund and its purpose, perhaps criminals paying damages or fines will be made more aware that their offense had its effect not only on society as a whole, but upon his individual victim as well. The system of additional fines will produce much needed revenue to help compensate for uncollectable actions against offenders. See 47 Notre Dame Lawyer 88, 117 (1971).

Section 470 provides for a duty to inform the victim of his eligibility for compensation consideration. Unawareness on the part of the public has been

one of the major shortcomings of present state programs.

The federal grant program is really the key to the future of compensation programs in the United States. Due to financial difficulties, many states feel they are unable to promulgate such needed legislation. By its grants to states having such programs, S. 2994 can insure passage of many enactments modeled on its provisions. Under the "state agency", the present court structure of the Massachusetts program may be in danger. However, if this is true, great incentive to remodel the existing structure is provided. The system has been inefficient on the whole due to crowded courts. See 47 Notre Dame Lawyer 88, 110 (1971). I would suggest strong language concerning a withdrawal of funding for failure to comply with the requirements of section 105, as provided for in S. 750 section 506.

While the additional subjects provided for in Titles II through IV are not my forte, I will briefly comment on them. Title II provides a sorely needed program to insure adequate insurance to public safety officers called upon to face great danger for often inadequate pay. Title III gives these people much the same coverage given to private victims of crime, again a needed program. Title IV is a strong measure to aid the victims of organized crime and racketeering. However, to provide recovery from injuries to business perpetrated by racketeering activity suggests that the victims of other crimes involving a loss of property should also be compensated. Only Hawaii and Carifornia have such provisions, and this to a very limited extent. See Cal. Gov't Code §§ 13970 (1969) et seq. and Hawaii Rev. Laws § 351–32 (1967).

Thus while possessing certain defects, S. 2994 has the ability to provide much needed relief for victims of crime within the jurisdiction of the federal government. In addition, through careful drafting and the grants provided for within the bill, it has the potential of being the key to adaptation by the states of proper

consideration to the unfortunate victims of crimes of violence.

UNIVERSITY OF PENNSYLVANIA,
CENTER FOR STUDIES IN CRIMINOLOGY AND CRIMINAL LAW,
Philadelphia, Pa., January 5, 1972.

Hon. John L. McClellan, U.S. Senate, Committee on the Judiciary, Subcommittee on Criminal Laws and Procedures, Washington, D.C.

DEAR SENATOR McCLELLAN: I received a copy of senate bill 2994, "Victims of Crime Act of 1972". I commend you and your colleagues for introducing this bill

which has been long overdue.

In general I am in accord with the purposes and philosophy of the bill. I find the list of crimes to which the bill applies (sec. 458) quite appropriate. I am in accord with most of the other aspects of the bill but would like to have you record my general opposition to one major aspect on page 18, sec. 464, subsection (a). In this section reference is made to the fact that the applicant for compensation must "suffer undue financial hardship from pecuniary loss incurred as a result of the injury or death of the victim". The reason I object to this aspect of the bill is that I believe that victims of personal criminal injury have a right to receive compensation regardless of their financial condition. Victim compensation to me stands in the same posture as social security benefits and should not be based upon the financial status of the victim. Because a person has been victimized by reason of incomplete and inefficient police control of criminal behavior the victim has a right, because of his social contract to participate in the state, to receive compensation regardless of his financial status.

Otherwise, I applaud the efforts of you and your colleagues who have submitted the bill to the Senate and look forward to its ultimate passage.

Yours sincerely,

MARVIN E. WOLFGANG,

Professor and Chairman,

Department of Sociology.

U.S. SENATE,

COMMITTEE ON THE JUDICIARY,

SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURES,

Washington, D.C., December 21, 1971.

(SPECIMEN LETTER TO STATE CRIME COMPENSATION BOARDS)

Enclosed are copies of a bill, S. 2994, the "Victims of Crime Act of 1972," and my remarks on its introduction. Title I of this measure would establish a Federal program to meet the financial needs of the innocent victims of violent crime. It would also provide for Federal matching grants to support similar State programs.

The Subcommittee on Criminal Laws and Procedures would appreciate your analysis of and comments upon this legislative proposal based on your experience with a comparable State program. We are also interested in your comments on the impact of the grant provisions on your State program. It would be most help-

ful to have your response by January 21, 1972.

Thanking you in advance for your cooperation, I remain

Sincerely yours,

JOHN L. McCLELLAN.

STATE OF NEW JERSEY,
OFFICE OF COUNSEL TO THE GOVERNOR,
Trenton, N.J., January 7, 1972.

Re Victims of Crime Act of 1972.

Senator John L. McClellan,

U.S. Senate, Committee on the Judiciary, Subcommittee on Criminal Laws and Procedures, Washington, D.C.

Dear Senator McClellan: Thank you very much for your letter of December 21, 1971 enclosing a copy of Senate 2994 and of the Congressional Record. Our own Violent Crimes Compensation Board is extremely new, the act took effect on November 1, 1971 and operations have just begun. No funds have yet been disbursed or opinions handed down. Accordingly, we have no "experience" on which to base comments on your legislative proposal. I would happily volunteer to provide you with such an analysis and comment in six months time but I know that you probably hope that Senate 2994 will be a functioning reality by that time.

Please feel free to contact me, however, in the event that we may be of any

assistance in this regard.

Respectfully yours,

DAVID F. NORCROSS,
Assistant Counsel to the Governnor.

STATE OF NEVADA,
DEPARTMENT OF ADMINISTRATION,
Carson City, Nev., December 29, 1971.

Senator John L. McClellan,

U.S. Senate, Committee on the Judiciary, Subcommittee on Criminal Laws and Procedures, Washington, D.C.

Dear Senator McClellan: I have reviewed the copy of S. 2994 that you sent to me. Nevada does have a Victim of Crimes Act, but it is limited to persons who were injured in an attempt to prevent the commission of a crime. Since the Act was effective July 1, 1969, the Board of Examiners has received six (6) claims, and approved five (5) for a total amount of \$20,059.00. Awards are limited by statute to \$5,000.00.

Because of our limits on the amount of the award and since our statute provides awards only to victims attempting to stop the commission of a crime,

S. 2994 would not have much impact on the present state program.

However, from my administration of the Nevada statute, I have become perhaps more aware than most citizens of the lack of assistance that is available for all victims of crime and would strongly urge the passage of S. 2994.

Sincerely,

HOWARD E. BARRETT,
Director, Department of Administration.

STATE OF NEW YORK,
CRIME VICTIMS COMPENSATION BOARD,
Albany, N.Y., January 24, 1972,

Re Senate 2994.

Hon, G. Robert Blakey, Room 2204, New Senate Office Building, Washington, D.C.

Dear Mr. Blakey: Reference is made to Senator McClellan's letter dated December 21st with respect to the above entitled bill and asking for comments

upon this legislative proposal.

With respect to Title I, Part F, there are perhaps one or two sections that you might care to re-examine. Section 457-b and 3 which refers to payments to anyone or more of such dependents perhaps there should be some wording or instruction with respect to apportioning the same among those entitled based

upon the degree of dependency.

Section 457-c provides for reducing the amount of the compensation based upon provocation. Perhaps you would also want to add in there to clarify that the claim may be rejected altogether. Section 464-d recites member of family of the criminal but I do not find that you have defined in Section 450 who is a member of the family. In sub-section-d you refer to the dependent and in section 11 you refer to a relative. Perhaps under one of these subdivisions you might want to consider defining a family as any person related to the claimant within some degree of consanguinity or affinity.

Section 466 provides for emergency awards, but I note that there is no amount stated. Of course, you may have purposely intended not to set up any specific

amount.

With respect to Part B-Federal Grant-I am concerned with respect to Section 106, sub. b-3 which refers to adequate provisions for recovery of compensation

substantially similar to those contained in Part F.

Section 467 would seem to indicate that the board must advise the Attorney General and institute such action within one year from the date upon which the judgment conviction became final. I am, therefore, wondering whether a subrogation section such as we have in our statute, which simply makes any award subrogated to the state to the extent of the award, will satisfy the requirements of your statute. I have examined the Maryland statute and, of course, they are in the same position with respect to this matter. It would seem, of course, that if all of the other requirements for the Federal grant satisfies the Federal statute that it would be a shame if this one item might prevent a state from qualifying for this Federal grant.

There is one other question that I should like to call to your attention and that is the effective dates since Title I will not become effective for 180 days following the enactment, although the other insurance provisions become effective immediately. No doubt there was good reason for this, but, of course, we would like to see Title I become effective upon the same becoming law. Even though our statute became effective March 1, 1967 we did not, as you know, have any number of claims during the first year. My records reflect that from March 1, 1967 through February 1968 we only received 196 claims. Accordingly, the organization of the board and setting up administrative procedures would

not seem to be a reason to delay the effective date.

I want to commend you on the fine work you did on this bill and in such a short time. I trust that you will keep me informed with respect to the progress and if there is any information and/or help that this board can furnish you, please feel free to call on us at any time. With best personal regards.

STANLEY L. VAN RENSSELAER.

P. S. I apologize for not having written sooner but the delay is due to my having been ill.

STATE OF CALIFORNIA, DEPARTMENT OF JUSTICE,
OFFICE OF THE ATTORNEY GENERAL,
Sacramento, Calif., March 10, 1972.

Hon. John L. McClellan, U.S. Senate, Washingotn, D.C.

Dear Senator McClellan: Your letter of December 21, 1971, addressed to the Criminal Injuries Board has been referred to this office. California has no Criminal Injuries Board as such but rather our program is administered by the California State Board of Control with this office acting as counsel for the program.

We are in accord with the objectives of S. 2994, and would welcome the additional assistance that its enactment could make available to the innocent

victims of crime.

In reviewing the Bill as it relates to victims of crime, the following specific observations are made:

In Part F, Section 450(10) the definition of "pecuniary loss" expressly excludes property damage. Would it prevent problems to exclude expressly general damages for pain or suffering, etc., as well? Also would it better serve the intent of the "Good Samaritan" aspect of the bill to allow payment of property damage claims where such property damage occurred while the citizen was attempting to apprehend a suspect or assist a law enforcement officer? We have had several claims under such circumstances where the citizen either deliberately or accidentally damaged his vehicle while pursuing a suspect. If done deliberately, the citizen could well find that the damage to his vehicle would not be covered under his "collision" coverage as being the result of an intentional act and even if covered the citizen would still be out at least his deductible.

Section 457(c) allows the Board to "reduce the amount of compensation in accordance with its assessment of the degree of such responsibility attributable to the victim." This may be a minor point but it might be well to expressly allow the Board to reduce the amount or deny the claim in its entirety under such

circumstances.

Section 458(a) lists the crimes to which the bill applies. While we are sure your staff has carefully considered all of the crimes mentioned, there are a few that raise questions not as to their merits but merely as to the intent of the bill

and for possible clarification. These are as follow:

(10) Negligent homicide—This has a tendency to allow recovery based on the result of the acts rather than the act itself. In other words, two persons could receive injuries as a result of a negligent act. If X were to survive he could not recover for his injuries under the bill even if there were gross negligence and he and his family would suffer pecuniary loss. But if Y died from his injuries which resulted from the same negligent act. Y's family could recover. Why should X be barred if alive but his family be allowed to recover if he died?

(13) Riot—This category could place a tremendous burden on the Board in attempting to determine the facts surrounding the injury claimed. Usually it is most difficult to identify what part is being played by individuals in a riot situa-

tion and unmeritorious claims could be easily presented.

(14) Unlawful sale or exchange of drugs—Would this category of crime allow an addicted or unaddicted purchaser of drugs to recover or perhaps his

family in the event of an overdose?

(15) Unlawful use of explosives—Would a violation of a statute regulating the transportation of explosives be sufficient to allow recovery for accidental detonation?

(16) Unlawful use of firearms—Would accidental or even deliberate discharge in a "No Shooting" area be sufficient to allow recovery if there were no intent to

cause the injury?

Under Section 459, a person may make application if "he suffered pecuniary loss as a result of the personal injury or death of the victim." Is this broad enough to include a County Hospital, Hospital Corporation, or even a physician, who rendered services to an indigent deceased victim? If so, is that the intent?

Section 464(f) limits the payment to \$50,000 for the aggregate of orders as the result of any one criminal act, omission, or occurrence. No provision is made for apportionment among multiple victims. If the "riot" or "explosion" situation occurs, \$50,000 may not be sufficient to effectively assist all the victims and an equal protection argument could be made that a limitation should be placed on the amount that can be awarded to each individual victim rather than basing the limitation on the occurrence.

Section 465(b) allows the Board to deduct from any payments ordered any payments received from the "criminal or from any other person on behalf of the criminal." First would this require a finding that the person who caused the injury and made such payment was in fact guilty of the crime even though he was acquitted in the criminal action or perhaps never even prosecuted?

Secondly, would deduction be allowed if any "person" making payment on behalf of the criminal were a liability insurance company, paying as a result of

their insured's (the criminal's) negligence?

Also would deduction be allowed if the victim recovered in an action against a third party who had a duty to protect the victim and negligently breached that duty? This occurs when a patron in a bar is assaulted by another patron and the victim recovers from the owner of the bar for the owner's own negligence in failing to protect his customer. Payment in such case is not made on behalf of the criminal.

Section 467(a) allows recovery from the criminal for payment made under the bill if the person be "convicted" of a crime. Is a "conviction" a condition precedent to recovery? Would this include a plea of guilty? Would recovery be impossible merely because the criminal burden of proof beyond a reasonable doubt were not met but a good likelihood exists that the civil burden of pre-

ponderance of the evidence could be established?

You also requested our comments on the impact of the grant provisions on our State program. If additional funds were available the program could be expanded to provide compensation to literally thousands of citizens in California who are or will become victims of crime in the future. Surprisingly few people are presently aware of the existence of such a program. With additional funding more publicity could be given to the program and the desirable result of compensating innocent victims of crime could be more satisfactorily accomplished.

Very truly yours,

Evelle J. Younger,
Attorney General,

THE COMMONWEALTH OF MASSACHUSETTS,
DEPARTMENT OF THE ATTORNEY GENERAL,
Boston, Mass., March 9, 1972.

Hon. John L. McClellan, U.S. Senate, Committee on the Judiciary, Subcommittee on Criminal Laws and Procedures, Washington, D.C.

DEAR SENATOR McClellan: An examination of S. 2994, the "Victim of Crime Act of 1972," reveals that it is substantially similar to the Massachusetts General

Laws, c. 258A, with a few notable exceptions.

The most important difference is the requirement in S. 2994 that no award can be made unless the Compensation Board finds that the applicant will suffer undue financial hardship. Under Massachusetts General Laws, need or undue financial hardship is not a prerequisite for recovery. The Special Commission on the Compensation of Victims of Violent Crimes created by the Massachusetts Legislature

in 1966 eloquently stated the reasons for this position:

"Victims of violent crime simply do not come from one income group. Nor do the resulting misfortunes hit only those with a small income. Loss of job, enormous medical expenses, disruption of normal life, pain and suffering, are universal in their destruction. To force a person who has suffered all or any of these misfortunes to accept the stigma of welfare is totally unjustified. And to exclude for economic reasons a person who has suffered these same hardships is equally unjustifiable. Significantly, it is the middle class family which will feel the greatest disequilibrium from these hardships. . . . Compensation is not a handout; it is restitution. Such a program can not legitimately exclude thousands of people from this protection on purely a class basis."

A further reason for not basing recovery on need is that neither under S. 2994 or Massachusetts General Laws, c. 258A will the victim obtain a total recovery in excess of his lost earnings and medical expenses. This is because of the provision in both statutes to reduce the amount of any award by the amount of payments received from the offender, insurance, or public funds. In other words, no victim can legitimately receive a "windfall" in the form of total compensation exceed-

ing his actual losses.

Secondly, the Massachusetts program makes use of existing institutions and is not administered by an independent compensation board. Under our system, investigation of a claim is conducted by the Attorney General, and the ultimate award is made by a district court judge. Our district courts do not sit with jury, and consequently, are not burdened with the heavy backlogs that exist in many other courts. So far, we have had no difficulty in obtaining hearing dates.

At the present time, Massachusetts does not have any provisions for emergency awards or periodic payments and review. While this may increase the administrative burden to some extent, the flexibility of such provisions is desirable.

With the exception of the above observations, S. 2994 closely resembles our

Massachusetts General Laws, and appears procedurally sound.

It is difficult to estimate the precise impact of the grant provisions on our State program at this time. Hopefully, federal regulations should provide flexibility in allowance Massachusetts and other states to determine the most effective manner of administering their various programs. Compensation to victims of violent crime is a relatively new concept in this country, and a certain amount

of experimentation appears desirable.

The proposed maximum award of \$50,000 is substantially higher than our present \$10,000 limit. The financial benefit of a 75 per cent grant to the Commonwealth may well be dissipated by larger awards. On the other hand, the victims obviously will be more adequately compensated for their losses. Certainly, 75 percent reimbursement should provide compelling inducement for adoption of compensation programs by the great majority of states which do not presently have this worthwhile legislation.

Thank you for consulting us on legislation of such magnitude. If we can be of

any further assistance, please do not hesitate to let us know.

Very truly yours,

ROBERT H. QUINN, Attorney General.

STATE OF HAWAII,
DEPARTMENT OF SOCIAL SERVICES & HOUSING,
CRIMINAL INJURIES COMPENSATION COMMISSION,
Honolulu, Hawaii, February 10, 1972.

Senator John L. McClellan, Chairman, Subcommittee on Criminal Laws and Procedures, Committee on the Judiciary, Washington, D.C.

Dear Senator McClellan: This will acknowledge receipt of your letter dated December 21, 1971, requesting our comments with respect to the proposed Victims of Crime Act of 1972 (S. 2994). My sincere apologies for this very belated

reply

I should preface my comments by noting that although the Hawaii Criminal Injuries Compensation Act went into effect in 1967, two of the three members of the present Commission were appointed on October 28, 1971. Accordingly, the experience and expertise of the undersigned is extremely modest. Moreover, the comments submitted herewith have not been reviewed by the full Commission prior to transmittal. I believe, however, that these comments fairly represent the general consensus opinion of our Commission members.

It should also be noted that my comments are directed only to Title I, relating to Compensation for Victim of Violent Crimes, since the other portion of S. 2994

fall without the jurisdiction of our Commission.

In order to assist you in assessing the Hawaii experience, I am transmitting herewith:

(a) A copy of the Hawaii Statute.

(b) A copy of legislative proposals presently before our State Legislature, suggesting amendments to our statute. This legislative proposal was prepared by the Commission staff and submitted as an administration bill.

(c) A copy of the memorandum prepared by the former Chairman of the Hawaii Criminal Injuries Compensation Commission relative to Senator Mike Mansfield's Senate Bill 750 (Criminal Injuries Comensation Act of 1971).

(d) A copy of the Hawaii Criminal Injuries Compensation Commission Fourth Annual Report, which is being submitted to our State Legislature this month.

(e) Copies of our past annual reports.

You will note that there are three areas in which the Hawaii scheme differs from S. 2994:

(1) Limitation Based Upon Need. S. 2994 would require a finding of "undue financial hardship" based upon "all of the financial resources of the applicant", in order to permit the payment of compensation. That requirement is generally referred to as a "Need Test", and is found in most of the present state statutes. Hawaii has no such limitation.

(2) Award for Pain and Suffering. The Hawaii statute permits an award of compensation for pain and suffering, provided the total award does not exceed \$10,000 in the aggregate. S. 2994 would limit an award to "pecuniary loss actually and necessarily incurred"; presumably this would preclude any compen-

(3) Enumerated Crimes. The enumeration of crimes giving rise to a claim under the federal proposal is in general more extensive than that permitted by Hawaii law. We do not think, however, that this is a significant matter.

Based upon the foregoing, we would voice only one concern with respect to the application of the federal scheme upon the Criminal Injuries Compensation program in the State of Hawaii as presently constituted. We believe both programs to be beneficient and generally compatible. However, in the application of federal cost sharing in the state programs, our primary inquiry would be directed to the question, whether and to what extent the state program must be identical to the federal program? Will minor variations be permitted? For example, will the imposition of a "need test" be required? Clarification and consideration of this area of concern would be appropriate and certainly appreciated.

We thank you for the opportunity of giving you our thoughts on S. 2994, and will be happy to supply additional materials or supplemental statements upon

request.

With best wishes and Aloha, Sincerely,

CLINTON K. L. CHING, Chairman.

UNITED STATES SENATE. COMMITTEE ON THE JUDICIARY, SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURES, Washignton, D.C., December 21, 1971.

(SPECIMEN LETTER TO STATE PLANNING AGENCIES)

Enclosed are copies of a bill, S. 2994, the "Victims of Crime Act of 1972," my

remarks on its introduction and other related documents.

As the Subcommittee moves to process this measure, we would appreciate your comments upon the proposed legislation and in particular the utilization in S. 2994 of established avenues of joint Federal-State responsibility under the Law Enforcement Assistance Administration.

It would be most helpful to have your response by January 21, 1972.

With kindest regards, I am Sincerely yours,

JOHN L. MCCLELLAN.

DIVISION OF CRIMINAL JUSTICE, DEPARTMENT OF LOCAL AFFAIRS, Denver, Colo., January 24, 1972.

Senator John L. McClellan, U.S. Senate, Committee on the Judiciary, Washington, D.C.

DEAR SENATOR McClellan: In response to your request for comments on S. 2994, the "Victims of Crime Act of 1972," I submit the following comments:

1. I heartily favor the general concept of compensation of victims of crime as a prosthetic measure which will aid those we have falled in our obligation to ensure a safe and orderly society.

2. I suggest the following amendments to the language of the bill which I feel

will make it more responsive to the needs.

a. Page 6, lines 15 and 16: (definition of "victim")

Should read: "victim" includes any person whose death or injury is proximately caused by a criminal act ..."

The amendment is thought to be more grammatically correct.

b. Page 18, line 19:

Should read: "written one year after the date of discovery of personal injury or death." because the situation of delayed symptom or mental distress and nervous shock should be compensated as well.

c. Page 18, lines 24 and 25:

Strike "a member of the family of the criminal" because, it is thought, various situations could occur where the mere fact of kinship barring recovery would be unjust.

3. I feel that the benefit schedule for payment under the group insurance program is inadequate. Specifically, I think that the provision of a \$10,000 payment

for an officer's death should be at least \$20,000.

In addition to these comments, I submit for your use copies of letters from three members of the Legislative Committee of the Colorado Council on Criminal Justice documenting their reaction to S. 2994. The consensus is wholly supportive of the bill.

I wish the bill speedy passage and stand ready to assist in any way.

Sincerely.

G. NICHOLAS PIJOAN, Director.

STATE OF COLORADO, DIVISION OF LOCAL GOVERNMENT, DEPARTMENT OF LOCAL AFFAIRS, Denver, Colo., January 14, 1972.

MEMORANDUM

To: Nicholas Pijoan, Director, Criminal Justice From: J. D. Arehart

Subject: Victims of Crime Act, 1972

Briefly, I am pleased to note that the U.S. Congress is finally taking action in dealing with the victims of criminal tragedy. However, I do not know that I am qualified to give you any comments on the proposed bill, S. 2994.

This, obviously, is a lawyer's bill and filled with provisions only a trained

lawyer can decipher as to their constitutionality or legal pitfalls.

I like the insurance provisions; whether the benefits are adequate is a personal matter, but economically speaking they seem woefully inadequate. We used to think a G.I. was worth only \$10,000 (in 1942) dead: Is a police officer worth less in 1972?

As a layman, I am concerned about a provision on page 14, lines 7 to 15 inclusive. If the board finds provocation can this be used in the subsequent trial to ease the penalty on the criminal? If so, the board should not have this power and should only reduce payment after a trial has found provocation.

Other than these comments, I am heartily in favor of society finally accepting

its economic responsibility to the victims of crime.

J. D. AREHART, Director.

DISTRICT COURT. Denver Colo., January 17, 1972.

Mr. G. NICHOLAS PIJOAN. 600 Columbine Building, 1845 Sherman Street, Denver, Colo. 80203

DEAR Mr. PIJOAN: You have asked for some comments concerning Senate Bill 2994, submitted by McClellan, et al, providing for compensation to innocent victims of crime and an insurance program relative thereto.

Without a detailed or close scrutiny of the Act, I hereby submit some of my

reflections concerning the proposed enactment.

Part F, page 4, contains definitions. This is the first part of the bill, and it is interesting to note that in those definitions there is no definition of what is a public safety officer. There does appear to be one in the latter part of the bill, as it pertains to the insurance portion. Page 2 refers to public safety officers, including policemen, firemen and correctional guards. It would appear that there should be a more definitive definition. For instance, isn't a police officer who is

privately employed during off-duty hours at a department store or a tavern considered a public safety officer, when employment is by contract between himself and the owner of the establishment, as distinguished from the appointing sovereign? What about an individual who has a special officer's permit and who is in the private employment of say a department store and has the power to effectuate arrests for shoplifting or thievery on the premises? Is he considered a public safety officer?

Moreover, on page 6, line 15, section (13), there is included in the definition of "victim" reference to a law enforcement officer, and as such is that category dis-

tinguishable from public safety officer?

On page 6, pecuniary loss excludes property damage. This seems to be inconsistent with page 15, section 458(a), which lists categories of crimes for compensation for pecuniary loss. In that category is included arson and burglary. It is difficult to see how those two categories could exclude property damage.

Under section 463 it is provided that the orders and decisions of the Board shall be reviewable in the appropriate court of appeals. Does this mean the United States Court of Appeals, and also are the State Courts precluded from taking jurisdiction over any of the matters in this bill? If the "appropriate court of appeals," to which reference has been made in section 463, is the United States Court of Appeals, then the Board is in fact acting as a fact-finding body, and in effect in the same judicial strata as the United States District Court.

Section 464(a) gives the Board the power to consider the financial resources of the applicant. Standards under this section should include any private, state or municipal benefit which is made available to the applicant. However, this is a

matter of implementation.

Section 464(a) provides that no order of payment of compensation shall be made unless the application has been made within one year of the date of personal injury or death. The query arises as to whether or not this language should be changed to make the period one year after the discovery of the injury or disease, for it is quite likely that a disease may develop as a result of an injury beyond one year from the time of the injury itself. Also consider whether or not compensation can be had for a mental disease arising out of a traumatic criminal incident, and when the same might develop.

With respect to actions by the Attorney General to recover from the criminal, as referred to in section 467 (a), there seems no good reason why the State Courts should not be given jurisdiction over this matter by special grant of Congress, as was done in some of the other federal legislative enactments, such as the OPA Act. It may be that the District Courts of the United States may be unduly burdened by these actions, and the incidents could be best borne by spreading them

out to the State Courts as well.

On page 25, section 104(a), it is doubtful that such provision is legally sustainable, since this would in effect be assessing a civil penalty in a criminal proceed-

ing for the benefit of a special fund created by the United States.

On page 39, which concerns itself with beneficiaries, section 508(a)(2), obviously a misplacement of words has occurred, because the word "dependent" there in lines 15 and 16 is incongruous with subsections (3) and (4). When read

in its entirety, that word cannot have any definitive meaning.

Throughout the Act, when definitions of the word "relative" are used, the words spouse, parent, grandparent, et cetera, are specified. However, care should be used not to exclude an adoptive parent, as care is used to include an adopted child. In many states an adoptive parent stands in the same position in the line of descent and distributions as an adopted child.

Yours very truly,

MITCHEL B. Johns, Judge.

AUER & MANZANARES, ATTORNEYS AND COUNSELLORS AT LAW, Denver, Colo., January 13, 1972.

Re Victims of Crime Act of 1972

G. NICHOLAS PIJOAN,

Director, Division of Criminal Justice, 600 Columbine Building, 1845 Sherman Street, Denver, Colo. 80203.

DEAR NICK: Relative to your request for comments concerning the abovecaptioned matter, I spent approximately 45 minutes last evening reviewing the Act and offer, for whatever they might be worth, the following comments:

1. The question arises in my mind regarding the establishment of insurance benefit programs for public safety officers, their families and dependents, if

such a program of insurance could not apply to all citizens engaged in official or unofficial law enforcement rather than limiting the insurance benefits only to public safety officers, their families and dependents. That particular aspect offers no insurance benefits for the citizen who attempts to foil a bank robbery and is killed or injured as a result. I realize the citizen might be eligible for compensation under other provisions of the Act, but not under the insurance and benefit program. Likewise, are public safety officers eligible to receive compensation in lieu of benefits under the insurance program.

2. The compensable items of recovery under the compensation section look very

adequate.

3. The definition of victim does not include a situation where a citizen is attempting to intervene or arrest an individual without the assistance of a law enforcement officer.

4. On page 7, line 17, I do not like the provision where the opinion of the Chairman shall prevail. There should be some alternative to this type of decision.

5. Noticeably absent from the Act is the recovery of compensation for the loss of property.

6. On page 13, lines 1 and 2, I wonder what the effect of plea bargaining

would be on "proof of conviction."

7. Page 14, line 7, appears to set up a defense to receiving compensation by denying compensation where contributory or comparative negligence is a factor. I foresee real difficulty in this Board of Compensation rendering such findings. 8. On page 16, line 3, I am concerned that crimes committed while operating

8. On page 16, line 3, I am concerned that crimes committed while operating a motor vehicle, boat or aircraft do not constitute a crime unless intentionally inflicted. This program would preclude any recovery for involuntary manslaughter situations. Very often murder charges or voluntary manslaughter charges, by virtue of plea bargaining are reduced to involuntary manslaughter. It seems that in Denver we had a recent rash of filings which involved the filing of felony charges where injuries were caused by drunk drivers or criminals fleeing from police officers.

9. I naturally favor the provision for attorney fees.

10. On page 18, line 22, with reference to the minimum pecuniary loss of \$100.00, or two continuous weeks' wages. I envison the situation where someone is injured and is treated at Denver General Hospital at the cost of \$50.00, while the same treatment at Mercy Hospital would run \$150.00. This is the same principle that the recent Illinois No Fault Insurance Statute was ruled unconstitutional.

11. The concept of a criminal victim indemnity fund with contributions coming from fines imposed upon criminals is an excellent idea. I think the State of Colorado should have such an indemnity fund for the express purpose of com-

pensating victims of crime.

12. If we have an insurance program for police officers, would this compensation then remove them from eligibility under the Workmen's Compensation Statute?

Nick, these are just a few of the comments I have regarding the Act and I hope they will be of some help to you.

Very truly yours,

Jesse Manzanares.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

EXECUTIVE OFFICE

January 21, 1972.

Hon. John L. McClellan, U.S. Senate, Washington, D.C.

Dear Senator McClellan: Please refer to your letter to Blair G. Ewing, former Director of this Office, the Office of Criminal Justice Plans and Analysis, dated December 21, in which you requested comments relative to the proposed legislation S. 2994, the "Victims of Crime Act of 1972." A specific request was made for the comments of this Office regarding the utilization in S. 2994 of established avenues of joint Federal-State responsibility under the Law Enforcement Assistance Administration (LEAA).

Initially, it should be stated that this Office, as well as the Government of the District of Columbia as a whole, has been actively interested in the establishment of suitable mechanisms whereby the plight of the innocent victim of crime would

be recognized and some course of action taken to attend to his needs.

Enclosed for your information is a copy of a paper, done by a member of my staff, dealing with the concept of compensating innocent victims. In our estimation this proposed legislation is the most comprehensive plan for the amelioration of the plight of victims in the United States, whether private citizens or personnel of public safety agencies.

There are, however, certain portions of S. 2994 to which the specific comments

and suggestions which follow are directed.

Section 464(a) lays the statutory groundwork for the exclusion of a certain segment of the population from the ranks of those qualifying for the receipt of compensation. If, as is inferred from your statements which appear in the December 11, 1971 Congressional Record, the conceptual basis for this legislation is, in part, the moral obligation of the Government to make whole the innocent victim, then does not this obligation extend to all citizens? At first glance it may be felt that to make eligible all citizens would create a situation which is prohibitive to the operation of this system. It may be discovered, however, through various data gathering and research techniques, that the volume of losses sustained by those victims of substantial economic means is such that to make these persons eligible to receive compensation would not escalate the costs of operating such a system to an undesirable level. We also feel that consideration should be given in the rules of the "Board" to an individual's liabilities as well as his assets in determining undue financial hardship.

Section 464(c) states that "no order for the payment of compensation shall be made under this part unless the applicant has incurred a minimum pecuniary loss of \$100. . . ." While realizing that a minimum loss level must be established to preclude the filing of numerous small claims for compensation, we feel that because small out-of-pocket, non-reimbursible losses have differing impacts on individuals, depending on the economic status of each, reconsideration should be given to the fixed rule governing the level of loss. Perhaps a sliding scale taking into account the economic status of each individual applicant should be given

consideration.

Moreover, we ponder over whether both Title II or Title III need be enacted into law. Perhaps III, Death and Disability Benefits for Public Safety Officers, would be most easily administered. This provision addresses a very real need and present the opportunity for the establishment of a Federal-State grant formula for the financing of its operations. Indeed, the logical administrative body might exist in the Law Enforcement Assistance Administration.

We greatly appreciate the opportunity to comment on this pending legislation and hope that our comments are of some benefit to you and your committee as you continue your efforts in this area. If I or my staff can be of any further

assistance to you, please do not hesitate to call upon us.

Sincerely yours,

WILLIAM S. VAN DYKE, Acting Director.

January 21, 1972.

Hon. JOHN L. McCLELLAN, U.S. Senate. Washington, D.C.

DEAR SENATOR McClellan: Please refer to your letter to Blair G. Ewing, former Director of this Office, the Office of Criminal Justice Plans and Analysis, dated December 21, in which you requested comments relative to the proposed legislation S. 2994, the "Victims of Crime Act of 1972." A specific request was made for the comments of this Office regarding the utilization in S. 2994 of established avenues of joint Federal-State responsibility under the Law Enforcement Assistance Administration (LEAA).

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sistance to you, please do not hesitate to call upon us.

Sincerely yours,

WILLIAM S. VAN DYKE, Acting Director.

OFFICE OF CRIMINAL JUSTICE PLANS AND ANALYSIS, STAFF PAPER NUMBER 3, COMPFNSATION FOR VICTIMS OF CRIME, BACKGROUND, CURRENT STATUS, AND ALTERNATIVES FOR THE DISTRICT OF COLUMBIA

(Prepared by Hallem Williams, Program Analyst, Under the direction of Blair G. Ewing, Director, Office of Criminal Justice, Plans and Analysis)

PREFACE

This paper on the question of compensation for victims of crime in the District of Columbia is the third in a series of papers to be undertaken by the members of the staff of the Office of Criminal Justice Plans and Analysis. The first paper, published in August, 1970, was written by Mrs. Claire Whitaker, and was entitled: "Court Reorganization in the District of Columbia," and provided a detailed comparison of the court system as it existed prior to the 1970 Court Reform and Criminal Procedures Act with the new court system provided in the Act.

The second paper, published in February, 1971, was entitled: "Resource Allocation and Efficiency in Criminal Justice and Law Enforcement." It was prepared by W. Michael Bailey, a staff consultant, with the assistance of Mrs. Donna J. McGough, who was then Director of Planning and Evaluation.

This paper, undertaken by Hallem Williams, stems out of the growing concern in the District of Columbia among government officials and the public that the victims of crime, who have multiplied as crime has risen over recent years, have been largely forgotten in the intense concern to make improvements in the efficiency and effectiveness of the agencies which comprise the formal system of criminal justice, and in the understandable and laudable concern with the rehabilitation of the convicted criminal. The paper is not designed to provide a final answer to the questions which it poses, which are: Should the District of Columbia arrange for the financial compensation of victims of crime? If it should, what form should compensation take, how should decisions be made with respect to compensation, and how should such a system be administered? The paper is, rather, designed to provide background on these questions, to assess the current state of victim compensation abroad and in the United States and to offer some possible alternatives for consideration of decision-makers.

The Office of Criminal Justice Plans and Analysis is the designated State Planning Agency for the District under the provisions of the Omnibus Crime Control and Safe Streets Act. As such, it has responsibility for the development of a comprehensive plan for law enforcement and criminal justice for the District, and for annual updating and revision of that plan. It also has responsibility for the administration of the block grant made to the District under the provisions of the Safe Streets Act. In both these tasks, it is advised and supervised by the Criminal Justice Coordinating Board, of which the Mayor is

the Chairman.

The series of staff papers has as an overall purpose the development of materials which will be of use to District government agencies in their efforts both to respond to changes and to initiate changes designed to improve and more fully coordinate the law enforcement and criminal justice system in the District of Columbia. The papers also designed to be of major assistance to the staff of the Office itself and to the members of the Criminal Justice Coordinating Board as they undertake both the planning functions of the State Planning Agency and the block grant administration functions, which latter fuctions include both selection of projects from among many applications and the monitoring and evaluation of these projects.

In addition to court reorganization, resource allocation, and compensation for victims of crimes, the subjects of the first three papers, these staff papers will expore such matters as the impact to date of the recommendations contained in the "Report of the President's Commission on Crime in the District of Columbia," a survey of research now in progress in the Washington metropolitan area and in the nation which is likely to be of immediate use to the District government in attacking District problems, a long term comparative analysis of trends in crime in large cities, an analysis of metropolitan crime trends, the extent and nature of the drug problems in the District, physical design criteria for use in

preventing or reducing crime, and other subjects.

The subjects are chosen in consultation with members of the Board and other District government agency officials. Staff members and occasionally outside consulting assistance will perform the necessary research or inquiry, along with the acquisition of information, and/or data, the analysis of materials, and the preparation of final reports. The papers are not conceived to be basic research papers, although that kind of paper is not excluded. Rather, they are to be attempts to stimulate thought about and focus attention on specific problems of system-wide concern and interest, and to bring to bear available data and information of these concerns in an organized fashion. The intent also is to keep them as short as possible so that those who receive them will take the time to read and use them.

Flexibility in this series of papers is of great importance since the staff wants to be able to respond to changing concerns and interests, both on its own part and on the part of the Board. Therefore, no set formula is prescribed, nor a single type of paper, nor a specific focus for all the papers, except that they should

deal with problems of general, system-wide concern.

INTRODUCTION

This staff paper is concerned with the question of Compensation or Restitution to Innocent Victims of Crime. It presents background of a factual kind, as well as discussion of experience elsewhere, and analysis of possible alternative courses of action. It is evident that in the development of the criminal justice systems in existence today the innocent victims of crime have been neglected and in many instances completely disregarded. While the punishment of crime is regarded as the concern of the State, the injurious result of the crime, namely the damage to the victim, is almost regarded as a private matter. In earlier periods of man's social development, man had to meet attacks from the outside and had to fight alone against those who victimized him, who caused him harm. Today's victim cannot himself seek satisfaction and revenge, since the law of the State forbids him to take the law into his own hands. At the same time, society affords him today little in the way of recompense for his sufferings. The victim is the forgotten man in criminal justice. Society is deeply concerned over rehabilitation of the criminal, is committed to improvements in the formal criminal justice system agencies, is determined to make the lot of witnesses easier by paying them, but has not thought to assist the victim in any comprehensive way.

The number of victims may be assumed to have increased in the District of Columbia at roughly the same rate as criminals, but the increased consideration for the victim cannot compare with the advances which have been made in criminology, and certainly are not to be compared with the amelioration of the lot of the criminal which has taken place. Great studies have been made in improving the criminal justice system in the District of Columbia. In the District there has been over the past year alone, substantial increase in expenditures in the areas of offender rehabilitation, police, the courts, correctional staff and correctional facilities, Public Defender and Prosecution. Specifically, the strength of the police force has been increased from 4100 to 5100, 10 judges have been added to the courts, monies have been allocated to plan new jail facilities

and a new court house.

Witnesses receive some payment for providing their services and fulfilling their roles in the efficient exercise of judicial proceedings. The innocent victim of crime, however, is not. There are, of course, many difficulties with victim compensation plans. It is difficult to know in all cases whether victims are in fact innocent. A victim may have provoked the crime. It is difficult to determine how much a payment might be, under what circumstances, and to whom. At the same time, however, victims do suffer serious harm. In May, 1971 an elderly man was robbed in a jewelry store, and cuffed by the robbers, bound and kicked. He died of a heart attack shortly thereafter. Others have suffered more violent deaths, as victims of armed robbers who shot and killed. Still others, perhaps more typical suffer physical and financial injury relatively small in cost perhaps, but with terrible impact on the victim. For example, in February, 1971 while walking to church on lower 16th Street, N.W. a woman was attacked from the rear by a man who was wielding a blunt object. The attacker struck the woman in the face, head, abdomen and lower back, then stole her purse and ran. The woman's garments were torn. As a result of this attack the woman required brief hospitalization and dental surgery, a loss of \$12.00 in her purse, irreparable damage to her clothing, a loss of four days of work, and unmeasured mental anguish.

This is an occurrence which is all too frequent in the nation and in the District of Columbia. These few examples, all too typical, point to the need for greater

attention to the plight of the innocent victims of such attacks.

Some countries abroad as well as some States in this nation are attempting to do something about victim compensation. In the United States jurisdiction which have provided statutes for Governmental Compensation for victims of violence include: California, Hawaii, Maryland, Massachusetts, and New York. There is also pending Federal legislation which would facilitate establishment of such mechanism throughout the States. In foreign countries examples of operative system can be seen in England, France, Mexico, Cuba, Germany, Denmark, Austria, Belgium. Finland, and Sweden.

This paper will attempt to examine the background of the problems related to the concept of Victim Compensation on both the foreign and domestic levels. It will further seek to examine and present the alternative actions which are

available for use by the District of Columbia.

I. BACKGROUND AND RECENT DEVELOPMENTS

The victim of crime—especially major crimes such as homicide, rape, assault, armed robbery, and kidnaping—arouse public sympathy. Frequently it has been suggested that the State should formally recognize a responsibility to the victims of crime and undertake to provide suitable compensation to them.

In the early middle ages and in early western history aggressors and victims were responsible themselves for retribution and restitution. Since the State did not exist as we know it, it did not until the late middle ages begin to define crime as an injury to the State rather than an injury to the victim. In continental Europe there has lingered a tradition of dual injury, and therefore of compensation to the victim as well as retribution by the State. But nowhere except perhaps in international relations, does there remain today a strong tradition of victim responsibility for righting the wrong done or of compensation to the individual victim of crime.

Responsibility for one's conduct is a changing concept and its interpretation is a true mirror of the social, cultural, and political conditions of a given era.1 When the victim was deprived of his power to decide the penal or retribute consequences of crime. This was due not only to the greed of feudal barons who wanted their share—as representatives of the emerging State—and the victims share of compensation for their own, but also to the emergence of State criminal justice, as opposed to criminal justice sought through a struggle between aggressor and victim. Public concern for more definitive and equitable relationships between the victims of crime and the criminal has become more intense. No one, of course, wishes to return to the anarchic situation in which the victim takes the law into his own hands, with the approval of the State, or at least with its moral neutrality. This interest in the criminal-victim relationship indicates rather that the understanding of crime is increasing. Perhaps it signals the decline of the totally isolated responsibility of the offender. The study of criminalvictim relationships struggle for the recognition of the role and responsibility of the noninnocent victim, who is not simply the cause of and reason for the criminal procedure, but is one who has a major function in the search for justice and a functional answer to the victim problem.

It is worth looking at the historical experiences with victim compensation systems. The concept that the victim is to be given restitution is an ancient one. It has had an established position in the history of penology. For a long period it was almost inseparably attached to the institution of punishment. Perhaps the best single source of information on the history and experience with victim compensation is Stephen Schafer, who, in his book, "Restitution to Victims of Crime", assembled a comparative survey of contemporary provisions for making restitution to victims, against a background of historical experience and development of these provisions. Largely through the use of extensive interviews, Schafer looked into the policies with respect to compensating victims of crime in twenty-nine (29) countries. This compilation of data was by no means intended to be definitive but merely suggestive. Great care must be exercised to preclude assumptions of systemic practicality when, in fact, the basic values and mores of another culture in which the concept flourished may tend to contradict basic

beliefs, customs, or ideology elsewhere.

In most of the nations surveyed, the major method of recourse for the victims of crime was through civil proceedings brought in a civil court. Some countries, however, have also established a supplementary procedure to deal with compensation to anyone who has suffered injuries or losses due to criminal actions. Specifically, Germany, France, Denmark, Austria, Belgium, Finland, and Sweden have built into their criminal proceedings a mechanism whereby one who is injured as a result of a criminal act may raise a claim for damages growing out of the criminal offense. This right to seek compensation extends to the heirs of the victim of an offense which results in his death. This marriage of the civil and criminal proceedings is referred to by Schafer as the "adhesion process".2 To a lesser degree the adhesion process is utilized in Holland in that the victim may join his civil action to the criminal proceeding if the claim is sufficiently small (approximately \$85).3 Certain countries—namely South Africa, Mexico, Israel, Germany, and Switzerland—regard victim compensation as being punitive in nature. For example, in Mexico the prosecuting attorney may place his emphasis upon not only the recovery of or payment for the value of goods stolen (in a robbery case) but also indemnification for moral damages to the victim or his family.

In many instances it appears evident that the award of compensation and its actual collection tend to be completely different animals. It becomes an exceedingly difficult task to obtain an award from an offender who is sentenced to

¹ Schafer, "The Victim and his Criminal Victimology", p. 2.

Schafer, Restitution to Victims of Crime, p. 139.
 Correctional Research, "What About the Victims of Crime," p. 7.

prison and whose wages are of a token sort or are regarded as a gratuity paid by the State. In France, however, the prisoners who are required to work receive wages which approximate those paid for comparable work in the "free" jobs market. These earnings may be assigned to the payment of the victims reparation after fines and legal costs due the State have been extracted.

II. THE STATUS AND EXPERIENCES WITH THIS CONCEPT IN THE UNITED STATES

State jurisdictions in the United States provide a unique and extraordinary laboratory in which variations of the same experiment may be tested and evaluated to determine which procedure is most efficacious. Local conditions and peculiarities frequently dictate variations in particular arrangements of a concept such as victim compensation.

Interest in the concept of victim compensation in the United States appears to be based upon an awareness that the reasons for the existence of systems to compensate victims in foreign countries also exist here, and may in fact be even more compelling here than abroad. While he was a Supreme Court Justice, Arthur Goldberg argued for victim compensation on these grounds. In a lecture

he delivered at New York University in 1964, he said:

"Whenever the government considers extending a needed service to those accused of crime, the question arises: But what of the victim? He should confront the problem of the victim directly; his burden is not alleviated by denying necessary services to the accused. Many countries throughout the world, recognizing that crime is a community problem, have designed systems for government compensation of victims of crime. Serious consideration of this approach is long overdue here. The victim of a robbery or an assault has been denied the "protection" of the law in a very real sense, and society should assume some responsibility for making him whole." ¹

The American people appear to agree that victim compensation is sensible and desirable in the American context. In a Gallup poll survey taken in late 1965, the question was asked: "Suppose an innocent person is killed by a criminal—Do you think that the State should make financial provisions for the victim's family?" The responses were as follows: 62% favored State compensation, 29% did not, and 9% registered no opinion. Though this particular survey addressed itself to the particular issue of homicide, the most extreme form of deprivation, it is not unlikely that the responses can be generalized with some validity to the underlying issue of compensating the victims of crime in general.

Since the 1965 Gallup poll, more than a half dozen States have considered implementing various forms of victim compensation. Still others have indicated that they will look very seriously into the feasibility of such a concept for their jurisdictions. Five States—California, New York, Massachusetts, Maryland, and Hawaii—have established systems for awarding compensation to innocent victims of crime. An examination of the systems of these five indicates that there are only two major approaches to the problem which have been tried in the five States. Therefore, it will be necessary here to examine systems in only two States, representing the two approaches or types. These two are Maryland, which also has the advantage of being the District's neighbor and therefore sharing certain cultural and other characteristics, and Hawaii. Hawaii is a distinct case, while Maryland is fairly typical of the other three States.

In Maryland an eleven man commission was appointed by the Governor, in October, 1966, to formulate recommendations with respect to the feasibility of establishing a mechanism for awarding compensation to innocent victims of crime. The Criminal Injuries Compensation Act was drafted and adopted. Subsequently, a Criminal Injuries Compensation Board, its procedures patterned after the Workmen's Compensation Board process, was established to serve as the administrative awarding body for the innocent victims of crime. The criteria used to establish eligibility for receiving such awards were then established and implemented. In Maryland an individual is awarded compensation on the basis of his "need", in that there is a "deductible". Before an award is made, more than \$100 out-of-pocket, non-reimbursable funds must be lost. If the victim is injured or disabled, the period of unemployment must be at least two weeks. Any prior award of funds, such as from insurance policies is subtracted from the amount of compensation to be awarded by the Board. The need criterion narrows the basis for victim compensation and eliminates minor awards.

¹ Goldberg, "Equality and Government Action," (As cited in Gels, State Compensation to Victims of Violent Crime, p. 167).

² Loc. Cit.

An example of the procedures for compensation is found in the following

summary of a claim which was denied (Case 1-P-69):

"Claimant, 61 years of age, had lye thrown in his face while he was operating his grocery store in Baltimore. Claimant earns approximately \$600. per month and has assets of \$12,000. Claimant lost one week of work and has \$150. in unreimbursed medical expenses. Section 12(F) of the statute provides that if a claimant will not suffer serious financial hardship as a result of his loss of earnings and out-of-pocket medical expenses, an award shall be denied. In view of the claimants assets and income, serious financial hardship was not indicated and the claim was disallowed." ¹

In Maryland, compensations totalling \$328,000 were awarded victims of crime for fiscal year 1970, the period from July 1969 through June 1970. The Criminal Injuries Compensation Board investigated 240 claims and made inquiries about 1,000 others. Of the 240 claims accepted, 105 decisions were rendered; awards were made in 42 cases and 63 were denied because they involved no serious

financial hardships.2

Victimizations considered by the Compensation Board in Maryland include assaults, stabbing, homicide, shootings, mugging, manslaughter by automobile, burglary, assisting in arrests, and rape. The breakdown in the sum of awards for this one year period was \$66,723 in lump sum payments to victims, \$261,277 in protracted payments; the average lump sum payment was \$1,431 and pro-

tracted claims averaged \$2,520 per year per claim.3

Other State systems with the exception of Hawaii, are like this one. In Hawaii, in calendar year 1969, the period from January 1969 through December 1969, 84 applications for awards of compensation were received by the Criminal Injuries Compensation Commission. Fifty of these applications were decided upon, leaving a balance of 42 pending. Of the fifty applications decided upon, forty-seven (47) resulted in awards and three (3) were denied. Some other relevant comparative statistics concerning the awards made in Hawaii for the previously mentioned period are as follows:

(a) average amount of award \$2.382.00

(4)	average amount of award \$2,962.00	
(b)	percentage of total awards attributable to:	ercent
1.	Medical expenses	29.5
2.	Loss of earnings	10.3
	Pecuniary loss to dependents of decased victims	
	Pain and suffering	
5.	Funeral and burial expenses	5.8
6.	Other pecuniary loss *	. 3

In Hawaii, the law stipulates that the maximum award to a particular victim is \$10,000, and that the maximum award to dependents of a deceased victim is an aggregate of \$10,000 (rather than an award of \$10,000 for each dependent).

The statute in Hawaii requires that the Criminal Injuries Compensation Commission deduct from any compensation award any payments received from the offender or from any person on behalf of the offender, or from the United States, a State, or any of its subdivisions, for injury or death compensable under the law.⁶

The legislative history of the statute clearly indicates that the legislature did not intend that the Commission should reduce the award by any amounts which the victim or his dependents received from medical insurance coverage. It, however, was not clearly indicated whether or not and to what extent welfare payments to the victim or his family, or Workman's Compensation, Social Security payments, or Veteran's Administration benefits must be deducted from an award.

In an opinion rendered by the Attorney General of Hawaii it was determined that welfare payments were not to be deducted from an award. Further, it was concluded that the lump sum death benefit payments from social security or workmen's compensation were to be deducted but that periodic monthly payments by Social Security, Veteran's Administration, or Workman's Compensation were

not to be deducted.

¹ Maryland Criminal Injuries Compensation Board, "1st Annual Report", p. 11. ² O'Connell, Crime Control Digest, "Maryland Establishes Criminal Injuries Compensation Board", p. 11.

tion Board", p. 11.

3 Op. Cit., 1st Annual Report of Maryland Criminal Injuries Board, p. 11.

4 Jubinsky, Second Report Criminal Injuries Compensation Commission, Hawaii, p. 13.

5 Jubinsky, Ibid., p. 7.

What should logically follow, then, is a conceptual interpretation of the statute providing for the payment of compensation to innocent victims of crime in the State of Hawaii. This conceptual basis is eloquently described in the following

quotation by the Attorney General in Hawaii:

"As indicated by Standing Committee Report #53, Senate Committee on Consumer Protection and Criminal Code Revisions, dated March 28, 1967, the purposes of the legislature in providing for payment of compensation under the Criminal Injuries Compensation Act is not a benevolent grant of funds, but is in recognition of the democratic fact that the prime duty of government is to protect its people from intentional physical harm." ¹

The conceptual basis of Hawaii's statute is not need or compensation as a form of welfare benefit, but victim compensation, per se. Thus, Hawaii's statute is materially different from the essentially similar legislations of the group States, including Maryland, Massachusetts, California, and New York, which require need or financial hardship as requisites to receiving awards of

compensation.

PERTINENT LEGISLATION

State interest in victim compensation has led to the initiation of legislation

to undertake a Federal system of victim compensation.

Several pieces of legislation have been introduced in Congress which provide for Federal funding for State operated programs of victim compensation. In 1969 two such bills were introduced by Senator Yarborough, S. 9 and S. 2936 (see appendix). The first Bill, S. 9, would have created a Federal Violent Crime Compensation Commission appointed by the President, with staff appointed by the Commission. Compensation to victims of crime, under this bill, would not have been dependent on the prosecution or conviction of the offender. The bill would further have provided the Commission with the power to institute an action against the offender for recovery of some or all of the compensation awarded. The maximum award of compensation was to have been \$25,000. The Yarborough proposal limited the crime-range to offenses causing personal injury. It rejected an extention to property losses in view of its high cost and the profitable protection by private insurance.

Of greater immediate interest because it proposed victim compensation in the District of Columbia, was S. 2936, also introduced by Senator Yarborough

in 1970.

Another bill which was also quite similar to those introduced by Senator Yarborough was introduced in 1969 by Congressman Horton, H.R. 7877 (see

appendix).

These three measures died with the end of the Ninety-First Congress. In the Ninety-Second Congress, in early 1971, two more Bills have been introduced by Senators McClellan and Mansfield, S. 16 and S. 750 (see appendix). Senator McClellan's Bill, S. 16 is an amendment to Title IX of the Organized Crime Control Act of 1970 to provide civil remedies to victims of activities which are prohibited by this title. Senate Bill, S. 750, introduced by Mr. Mansfield is essentially a carbon copy of those bills introduced by Senator Yarborough. These two bills have been referred to the Senate Committee on the Judiciary.

IV. ALTERNATIVES FOR THE DISTRICT OF COLUMBIA

The lack of detailed information about costs and operations of systems of victim compensation has hampered legislators in their efforts to evaluate alternative courses of action in this area. Also, there is considerable disagreement concerning the goals that victim compensation might seek to achieve. It is not surprising, under such conditions, that nobody is certain as to what constitutes the best approach to the concept. The task of deciding upon a pattern for victim compensation programs appears to come down to a choice between unknown made hesitantly, pending observations based on experience with actual operations of such systems over time.

Some conclusions, however, can be drawn. For example, the victim compensation program's structure in California appears to be defeating its specified purposes. California's program is drawn up within the framework of the welfare program; and the following critique of this approach by R. D. Childers

appears to be sound:

¹ Jubinsky, Ibid, p. 8.

"Welfare programs are analogous to victim compensation in that they deal with destitution, which compensation is intended to prevent. Welfare and compensation are unrelated in their rationale, their victims, and the social problems they seek to allieviate . . . Victims of crime ought not be required to divest themselves of all resources before qualifying for compensation. Nor should they receive payments at a level kept low in part to induce people to return to the work force.1

No doubt this arrangement has the advantage of discouraging frequent claims for either large or small amounts. It therefore has the advantage of economy. It does not, however, encourage those who are truly victimized and who are innocent of any complicity in the crime, either as provacteur or perpetrator, to ask for compensation. In short, it discourages everyone and is therefore likely

to be self-defeating.

The alternatives appear to involve a variety of determinations. First, it may be that decision-makers will not see the need—on a theoretical or moral basisto develop and implement a victim compensation system. The expense involved will be one factor in such a decision. Another will be the degree to which decisionmakers wish to depart from the traditional notion that the State is harmed by crime and the State punishes the criminal, but does not compensate the victim.

If a determination is made that such a system is theoretically desirable then a second kind of determination will need to be made, a determination about the method of administration. Presumably it would be possible to establish a system involving court determination, in civil or criminal suit, to determine the extent of the damage suffered. None of the American States which have such systems have chosen this approach. The other method, which is the one they have chosen, is to establish a quasi-judicial, administrative board to receive claims and make determinations.

A third kind of determination which needs to be made involves the establishment of criteria for eligibility. Maryland and California stress financial need, set limits on the sizes of claims, and in Maryland there is, in effect, a deductible amount, obviously based on the assumption that the victim must be willing to bear at least a part of the cost, although probably also based on the assumption that otherwise the compensation board would be flooded with thousands of tiny claims.

A fourth kind of determination which needs to be made involves the kind of crimes for which compensation will be made. These could, for example, include all crimes against persons and uninsured property, or all kinds of crimes against persons which involve physical injury, and only personal property, or only crimes against persons of a major kind involving physical injury. The variations involved are many. The general tendency in the United States is to limit claims to those associated with major crimes against persons, and to exclude minor crimes, small amounts, and crimes against property, on the assumption that property will be insured. The whole area of crime insurance for property in high crime areas is intimately related to this problem, since in the absence of insurance against crime-caused losses, victim compensation could become a form of insurance for property owners in high crime areas.

A fifth kind of determination involves development and utilization of methods to assure that the system will not be abused, either by those who make fraudulent claims or those who administer it. For example, many poor persons are victims of crimes, and lose small amounts of property in street robberies. The amount may be small; that is, it may be under \$100, but that amount is of major importance to a poor person. It may mean loss of income for basic necessities. A welfare check may compensate for this loss, but the working poor cannot recover such a loss. The system, if one were to be developed, would need to take account, perhaps by a sliding scale based on victim income, of the extent of the loss of the victim. Similarly, if property were to be covered, one would have to devise methods to assure the public that it was not compensating a property owner for

a loss for which he was also being compensated through insurance.

A sixth set of determinations involves cost estimates. In Maryland, the cost has not been high, nor has it been high in any of the other States. In fiscal 1970, Maryland paid out, with a population more than four times that of the District. about \$328,000. The District's higher crime rate and the fact that most of the Maryland claims came from the city of Baltimore, which is only slightly larger

 $^{^1\,\}mathrm{Childers},$ "Compensation for Criminally Inflicted Personal Injury", p. 444, 462 (as cited in Geis, p. 174).

in population than the District of Columbia, might suggest that the cost in the District of Columbia might run that much if the District of Columbia system were constructed in the same way. If the District were to adopt a system more like that of Hawaii, the cost would presumably be more. Variations in eligibility, in amount of deductible, and in the types of crimes to be included would vary costs.

While the principle of compensation for victims of crime is relatively straightforward, the six sets of determinations suggested above indicate that administration of such a program can become quite complex. The experience of the States to date with their system is not conclusive on any of the issues about which determinations need to be made, however. While much can be learned from their experience, decision-makers should not expect to be able to resolve the issues related to the determinations to be made solely on the basis of experience in other States.

The experience of government officials is, of course, not the only experience which needs to be examined. The victims themselves need to be asked their views about victimization and victim compensation. The Office of Crime Analysis, a unit in the Office of Criminal Justice Plans and Analysis, is asking, through the use of survey research techniques, the people of the District of Columbia about victimization, about their views as to which crimes arouse the greatest concern on the part of the citizens, and how citizens perceive crime in the District of Columbia. A specific question is being asked about the views of the public on victim compensation. The results of this study, to be made available by September, 1971, should provide valuable information about the concerns of the citizens and the need for as well as the support for a system of victim compensation.

The compensation of victims would appear to be an essential element in a comprehensive attack on crime. The effort to improve the criminal justice system is frequently hampered by the belief on the part of far too many citizens that the system is impersonal and hostile to those whom it catches up in its processes. If defendants are to have counsel, if witnesses are to be paid, then the other participant, the victim, would appear also to have a claim against the State, a claim for his injuries and losses when the criminal, in defiance of the laws of the State, attacks an innocent victim for whom the State promises to provide protection through the police power.

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STATE OF NEW YORK EXECUTIVE DEPARTMENT,

OFFICE OF PLANNING SERVICES,

DIVISION OF CRIMINAL JUSTICE,

New York, N.Y., January 20, 1972.

Hon, JOHN L. McCLELLAN,

U.S. Senate, Committee on the Judiciary, Subcommittee on Criminal Laws and Procedures, Washington, D.C.

DEAR SENATOR McClellan: Thank you for your letter of December 21, 1971 with which you enclosed a copy of S2994 and related explanatory materials.

As an administrator of a State Planning Agency responsible for administration of the Omnibus Crime Control and Safe Streets Act in New York, I believe that the legislation addresses an important criminal justice need. There are, however, a few issues regarding the intended application of the bill which I believe should be raised.

1. Section 450(13) defines a "victim" among other things as a person who is killed or injured "while assisting a law enforcement officer to apprehend a person who has committed a crime". Assume that an officer is attempting to arrest someone whom he reasonably believes has committed a crime and receives assistance from a citizen who is injured in the process. Assume further that the person arrested was clearly innocent and was a victim of mistaken identity who merely attempted to defend himself from what he believed to be an unlawful arrest. Is such a citizen volunteer covered within the definition?

2. The definition of "victim" also includes one who is injured "as a proximate cause of a criminal act committed or attempted against him". I believe the more precise way of describing the situation would be to say that the proximate cause of the injury was the criminal act committed against the victim. The victim is injured as a result of the act not as a cause of the act. In any event, assume that a citizen who has been kidnapped and held hostage is injured by law enforcement officers during a raid on the premises where he is being held. Is such a citizen covered within the definition? If he is not, is it not appropriate that he should be?

3. By placing the new provisions relating to state operated crime victims compensation agencies at the end of section 303, I assume that the current provisions of section 303(10) requiring states to increase current levels of criminal justice spending will not apply to this new program. It is my hope that states such as New York that have taken steps to establish such agencies will be given assistance in meeting the expense of current programs rather than forced to increase expenditures beyond present levels.

4. Similarly, I am assuming that a state which already has a crime victim compensation agency may continue its existence without change and the State Planning Agency under the Safe Streets Act will merely act as a conduit for the

federal support.

5. With respect to the insurance provisions of the bill, there appears to be a potential inconsistency as they relate to volunteer firemen. Section 500(5)(c) appears to include volunteer firemen who serve without pay among those eligible for coverage. However, section 501(a) seems to contemplate limiting coverage to officers who are "employed on a full-time basis". Moreover, the section also contemplates deduction of premiums from the "officer's pay". If volunteers are to be included, some other arrangement for payment of premiums seems necessary.

6. With respect to the insurance provisions, it should be noted that there are a variety of insurance programs in New York which may cover part of the field addressed by this legislation. I am in no position to spell out the implications of

the legislation for those programs.

7. Finally, it should be pointed out that LEAA should be allocated substantial resources for the administration of this insurance program. If the program cannot be administered from the federal level without delegation of substantial administrative duties to the states, those states, such as New York, which have large numbers of eligible officers will be faced with sizable new financial burdens.

Thank you for the opportunity to comment on this important legislation.

Very truly yours,

ARCHIBALD R. MURRAY,
Administrator.

IOWA CRIME COMMISSION, IOWA CRIME COMMISSION, STATE CAPITOL, Des Moines, Iowa, January 19, 1972.

Hon. John L. McCleilan, U.S. Senate, Washington, D.C.

DEAR SENATOR McClellan: The Iowa Crime Commission appreciates your let-

ter of December 21, 1971 asking for comments with respect to S. 2994.

Title I of the Act cites a definite need for the compensation for victims of violent crimes. We would concur with this need, particularly with relief provided victims of crimes of a federal nature and involving federal process. We think, however, you should reconsider the thrust of that portion of the Title which provides for compensation through LEAA resources to victims of crimes within

the states and primarily involving state jurisdiction.

The reluctance to endorse compensation of victims within the state using federal funds, is based upon a belief that the taxpayer already shoulders a disproportionate share of the criminal justice process. Government pays for the apprehension, adjudication and finally any correction required as a result of a sentence. In addition the taxpayer may bear the cost of a court appointed attorney, as well as the cost of appeals, many of which are of a frivolous nature. There is a strong feeling in Iowa that the offender should make restitution to the victim of his crime. In fact, the Iowa Crime Commission is working with members of the legislature in the attempt to provide for such restitution in our criminal courts. It is recognized that in some cases it would be impossible for an offender to make restitution. This is where we could use assistance from the Federal Government to furnish relief. We, therefore, believe that any federal program of compensation to a victim should be made available to a state after every attempt has been made by the state and its courts to cause restitution to be supplied by the offender. If an offender serves a sentence prior to a time when he is able to make restitution, and relief to the victime must be tendered, we would hope that the offender would be required to reimburse the source of the victim's relief; in this case federal aid.

The provision of Title II, Group Insurance For Public Safety Officers, is concurred in. We note that you have included certain public safety personnel such as fire fighters who now are considered to be outside the purview of the Safe Streets Act. We further strongly recommend that any evolving program of assistance be designed to reduce the administrative complexities. The fantastic growth of administrative requirements under LEAA programs has literally outstripped the state's ability to administer a program effectively. The original Safe Streets Act paid little attention to the administrative workload, but through its part "B" provision concentated on planning. We find that a state spends about 75% of its time complying with administrative requirements of LEAA and the remaining 25% towards comprehensive planning. When new work loads such as the part "E" produced by the amendment of 1970 and things such as you now have in mind involving compensation of either victims or law enforcement personnel are added,

we must question the ability of any state to properly discharge its duties.

We fully agree with Part II Death and Disability Benefits for Public Safety Officers. However, I believe the comment concerning administrative overload applies

here as well.

Title IV Civil Remedies for Victims of Racketeering Activity, is concurred in. It is hoped that these comments concerning the proposed legislation are of some value. We are pleased to contribute in any way you may require in our common effort to improve the criminal justice system.

Sincerely,

GEORGE W. ORR, Executive Director.

ARIZONA STATE JUSTICE PLANNING AGENCY, CONTINENTAL PLAZA BUILDING, SUITE M, Phoenix, Ariz., January 7, 1972.

Hon. John L. McClellan, Chairman, Subcommittee on Criminal Laws and Procedures, U.S. Senate, Washington, D.C.

Dear Senator McClellan: Thank you for the opportunity to review S. 2994 and the related documents. Although we do not feel that we could endorse the specific proposals without further study, we certainly agree that the objectives are desirable.

We wholeheartedly support the proposition that established channels under the Omnibus Crime Control and Safe Streets Act should be utilized in implementing improvements in the criminal justice system. We would, however, offer one technical suggestion. For those portions of S. 2994 which contemplate expansion of the purposes of the Omnibus Crime Control and Safe Streets Act, (victim compensation and the insurance program) a provision should be added exempting funds applied to those purposes from Section 303 (2) of the Act. This is necessary since the administering agency of such programs would usually be at the state level, even though the ultimate beneficiary is a local government or a private individual. An exemption from the "pass through" provision would eliminate the cumbersome process of obtaining local consent for the expenditure of funds.

If we can be of any further assistance, please let us know.

Very truly yours.

ALBERT N. BROWN, Executive Director.

EXECUTIVE DEPARTMENT. GOVERNOR'S COMMISSION ON LAW ENFORCEMENT AND THE ADMINISTRATION OF JUSTICE. Cockeysville, Md., January 28, 1972.

Hon. John L. McClellan, Chairman, Committee on the Judiciary, Subcommittee on Criminal Laws and Procedures, U.S. Senate, Washington, D.C.

Dear Senator McClellan: We have reviewed S. 2994 as requested by you and have the following suggestions regarding this legislation:

1. In section 450(9) personal injury is defined as actual bodily harm and includes pregnancy, mental distress and nervous shock. We feel that it would be best if mental distress and similar items were omitted.

2. Section 451(d) should spell out that the Chairman has the power to delegate

someone to act for him.

3. The language in section 457(b)(3) to the effect that "any person who has suffered pecuniary loss as a result of that death" appears to be too broad. It probably should be limited to someone related to, living with, or dependent on the victim.

It is also suggested that a minimum loss for consideration be established and that a mechanism for appeal be developed. Both of these features are present

in the current Maryland system and have worked well.

The Commission does support the concept outlined in your bill and will follow its progress in Congress. If the legislation is passed, we would strongly encourage this as an addition to current Safe Streets Act authorizations as existing funds are needed for other criminal justice programs.

Sincerely,

RICHARD C. WERTZ, Executive Director.

STATE OF MICHIGAN EXECUTIVE OFFICE, OFFICE OF CRIMINAL JUSTICE PROGRAMS, Lansing, Mich., January 12, 1972.

Senator John L. McClellan, Committee on the Judiciary, Subcommittee on Criminal Laws and Procedures, U.S. Senate, Washington, D.C.

DEAR SENATOR McClellan: This is in response to your letter of 12-21-71 pertaining to Senate Bill 2994, "Victims of Crime Act of 1972." My overall reaction to the bill is favorable in that it satisfies a need in the criminal justice system by establishing equities in a victim with financial need, rather simply viewing criminal behavior as an act against society.

Although each amendment to the Omnibus Crime Control Act may have merit. there is a danger that when they grow in number, the available financial resources will be spread so thin that they will dilute the quality of the criminal justice programs at the local level and thus subvert the original purpose of the act. This is precisely the problem with the authorization of Part C action money for the establishment of group insurance for public service officers. The same criteria can be used for Part B of Title I-Compensation for Victims of Violent Crimes. The bill does not direct the state planning agency to create a new program area for Part C funding. It directs the Law Enforcement Assistance Administration to fund another program area with Part C money which may or may not be under the supervision or control of the state planning agency. The problem of diverting funds from current state planning agency programs can be alleviated if appropriations for Part C continue to increase accordingly. A method of insuring the increase would be to insert a specific appropriation clause covering a definite period of time.

It is hoped that these comments are helpful. If more information is desired, it

will be supplied upon your request.
Sincerely,

DON P. LEDUC, Administrator.

COMMONWEALTH OF VIRGINIA,
OFFICE OF THE GOVERNOR,
Richmond, Va., January 20, 1972.

Hon. John L. McClellan, U.S. Senate, Washington, D.C.

DEAR SENATOR McCLELLAN: This is in reply to your letter of December 21, 1971 enclosing copies of a bill, S. 2994, the "Victims of Crime Act of 1972," and

requesting my comments.

The bill provides for benefits greatly needed by law enforcement personnel. The proposed utilization of the established Federal-State relationships in the Safe Streets Act program administered at the federal level by the Law Enforcement Assistance Administration is particularly commendable. I think the utilization of these established relationships in the implementation of the proposals in S. 2994 is an excellent concept, and can be quite effective.

However, I do have one serious note of pessimism. In the second part of Title I and Title II of the bill, there is provision for matching contribution of

a non-federal share at the state level.

I am not aware of any groundswell of sentiment in Virginia or among its legislators for the adoption of a program for providing compensation for the victims of violent crime. And I do not believe that the passage of federal legislation, with the carrot of federal grants, would be sufficient to change that sentiment. I simply do not believe that the General Assembly would be disposed to appropriate sufficient funds for the non-federal contribution to enable the Commonwealth of Virginia to take advantage of the program.

I would make the same remarks with respect to the provisions of Title II of your bill providing for group insurance, where a non-federal contribution is called for. I do not recall hearing or reading of any sentiment in our General Assembly for a group insurance program, and again, I do not believe that the passage of federal legislation, with the possibility of federal grants, would be

sufficient to induce our General Assembly to adopt such a program.

As you know, our General Assembly is now in session. The Governor just submitted his budget proposals for the 1972–1974 biennium to the General Assembly. The Governors proposal does not contain sufficient funds to provide the non-federal share to meet the "buy-in" and the "hard match" requirements of the Omnibus Crime Control and Safe Streets Act as amended in December 1970. Unless I am successful in convincing the General Assembly that they should increase the appropriation recommended by the Governor, Virginia will lose during the next biennium approximately \$14 million in Safe Streets Act funds already provided for in the existing provisions of the Omnibus Crime Control and Safe Streets Act. We estimate that Virginia would be entitled to receive in FY 1973 approximately \$10 million, and in FY 1974 approximately \$17 million. The Governor's budget recommendation to meet the "buy-in" and "hard match" requirements as to non-federal share will enable Virginia to receive, under the existing provisions of the Safe Streets Act, \$7.6 million in each of the two fiscal years mentioned. In short, the Governor did not choose to raise the level of federal receipts for the Safe Streets Act program beyond that existing in FY 1971.

So far I have not found too much sentiment in the General Assembly to indicate that there will be substantial disagreement with this gubernatorial recommendation. Thus I am very pessimistic about our General Assembly being inclined to take advantage of any of the programs provided for in your legislation

which would require a non-federal share contribution.

I am sure that you recall the objections of the states with reference to the "buy-in" requirements when they were before the Congress in 1970. I am well

aware of your personal involvement on the Senate side and in the conference committee in attempting to avoid the enactment of the "buy-in" requirement. Nevertheless, it was enacted, as the result of the compromise in the conference committee, and it has now had the effect of denying to Virginia and to its local units of government a substantial portion of what otherwise could be very helpful federal grants under the Safe Streets Act. I am afraid our General Assembly is not overly impressed with the argument that "X" amount of state dollars will buy "Y" amount of federal dollars.

In effect, the "buy-in" requirement will significantly reduce Virginia's participation in the Safe Streets Act program. The Governor's budget recommendation also included a rather sizeable increase in the state income tax, but even with this increase no new significant programs will be undertaken. The increased revenues will have to be used to continue the present level of state services, the costs of which increase faster than the estimated state revenues. As you may

know, Virginia does not engage in deficit spending.

All of these comments point, in my opinion, in one direction—and that is, that the only effective means to accomplish much of what you propose in your bill is some revenue-sharing concept. I simply do not believe that state legislatures, especially in Virginia, are any longer attracted to the establishment of priorities in accordance with federal categorical grant programs enacted by Congress.

With kind personal regards, I am

Yours very truly,

RICHARD N. HARRIS, Director.

LAW ENFORCEMENT COUNCIL, Salem, Oreg., January 25, 1972.

Hon, John L. McClellan.

Chairman, Subcommittee on Criminal Laws and Procedures, Washington, D.C.

Dear Senator McClellan: Please accept my apology for not replying sooner to your letter of December 21, 1971, concerning your bill, S. 2994, providing com-

pensation to victims of crime.

Our staff has reviewed the bill and accompanying material from the Congressional Record, and concur without reservation with the concept and details of the bill with one exception. We do not agree with Part B—Federal Grant Programs, Sections 105, 106, 107, 108, and 109, which amends Section 301 of Part C of Title I of the Omnibus Crime Control and Safe Strets Act of 1968. Part B would place an administrative burden upon state law enforcement planning agencies for which they are untrained, inexperienced and not staffed. It would mean a tremendous expenditure of state and federal funds to build a new administrative empire, thereby siphoning off funds which should be available to victims of crime.

We would suggest that Part B of your bill be amended to place this administrative function—which would be crucial to the success of the program—in existing state agencies already performing a quite similar function—those administering

workmen's compensation.

In Oregon, this responsibility lies with the State Accident Insurance Fund (SAIF), operating under Oregon Revised Statutes 656.752, as a competitive mutual insurance company. Contributing employers are insured against liability to their workmen for bodily injury received by accident in the course of employment. SAIF protects the rights of both the employee and employer. SAIF provides and maintains a trained administrative force through which injured workmen receive medical treatment, compensation and necessary rehabilitation. It has 14 regional offices serving the entire state.

A program such as yours could be implemented through a state agency such as SAIF with a minimum of time and expenditure of funds. While we do not know what other states have such an agency, we feel that all—or most—have such an

agency in being.

We appreciate your consideration in allowing us to review and comment on S. 2994.

Sincerely,

EDWARD R. COOPER, Coordinator.

CALIFORNIA COUNCIL ON CRIMINAL JUSTICE, Sacramento, Calif., January 25, 1972.

Hon. John L. McClellan,

U.S. Senate, Committee on Judiciary, Subcommittee on Criminal Laws and Procedures, Washington, D.C.

DEAR SENATOR McClellan: This letter is written in response to your letter of Dcember 21, 1971 requesting comments on Senate Bill S. 2994 and in particular the utilization in that bill of "established avenues of joint Federal-State respon-

sibility under the Law Enforcement Assistance Administration".

I believe that the proposed lgeislation is directed at a very real need of the criminal justice system and is based on a proper and moral obligation to answer that need. As you have noted in your remarks on the introduction of the Bill, California was the first state to adopt legislation making awards available to victims of violent offenses. While there are some differences between the California Plan and the Federal Program outlined in Title I of the Bill, it appears to us that California would be entitled to a grant under Part B of Title I of 75% of its current Plan. We feel certain that the established avenues of joint Federal-State responsibility are well suited to serving the interest of both the Federal and the State Governments under Part B of Title I of the Bill and will provide real benefits in accomplishing the purposes of this legislation.

We do not feel, however, that the same considerations apply to those provisions of Title II of the Bill which authorize grants to state planning agencies for the establishment of statewide group insurance policies for public safety officers. There has not been any past experience of the state planning agencies in establishing or administering any such programs and such grants would involve an entirely new activity for them. No doubt we, and the other state planning agencies, would be able to adapt our programs to accommodate this activity, but we entertain some doubt that the Council would wish to undertake this additional program. The conclusion is inescapable that the further effort required for such an additional program would have the effect of lessening the strength of our

programs in the areas with which we are presently concerned.

It should be noted that we are somewhat unclear about the meaning of the word "establishment" in Section 301(b)(11) of the Omnibus Crime Control and Safe Streets Act of 1968 as amended by the Bill (Page 46). If "establishment" does not include any responsibility for the ongoing management of such a program, the bruden of the state planning agency is obviously more limited and

is less of a concern.

We would also make the observation that as more states establish their own group life programs under the proposed measure, the federal program will be limited to providing insurance for officers in fewer and fewer states. It is not at all certain that the Federal Government will be able to purchase group life insurance for these officers at rates substantially less than those available under private plans. It may well be that private rates will decrease once the plan is established. The payment by the Federal Government of one-fourth of the cost, however, will make the insurance attractive to officers in these few states. The net effect may be to establish a program which is eventually reduced to a small scale and is not commensurate with the large federal expenditures required to maintain the program.

Title III of the Bill does not appear to involve the participation of the state planning agency, unless it is contemplated that LEAA will engage the agency in some manner to assist in the conduct of the program. We have no experience in conducting any such program, but we would certainly atempt to assist LEAA

in the program if such assistance is requested.

Titles IV and V, of course, do not involve the activities of this agency except to the extent that Title V provides that Title III shall become effective on or after January 1, 1967. The state planning agency may be utilized by LEAA to assist in ascertaining those officers as to whom awards might be considered under Title III. This agency would be of assistance in that effort and our experience and contacts with law enforcement agencies may well prove to be a real benefit in rendering that assistance.

We trust that these comments will be helpful to you. If you should desire any further information, particularly about the status of Federal-State responsibility under LEAA in California, please get in touch with us. We are happy to assist

you and your subcommittee at any time in any way possible.

Sincerely,

ROBERT H. LAWSON, Executive Director. OKLAHOMA CRIME COMMISSION, Oklahoma City, Okla., January 25, 1972.

Hon, John L. McClellan,

U.S. Senate, Committee on the Judiciary, Subcommittee on Criminal Laws and Procedures, Washington, D.C.

Dear Senator McClellan: I am very pleased to give my reactions to S. 2994,

the "Victims of Crimes Act of 1972."

This is surely an area of great need throughout our nation. As we seek to prevent and control crime with the aid of the Law Enforcement Assistance Administration, we should not neglect those who still suffer the consequences of criminal acts. In doing so, we as a society are doing only half of our job.

I personally feel that passage of the proposed legislation is important and that already existing avenues of joint federal-state responsibility under LEAA

could and should be used to implement it.

Please feel free to call upon us again as the program progresses.

Sincerely,

NORMAN MARTIN, Executive Director.

GOVERNOR'S COUNCIL ON CRIMINAL JUSTICE PLANNING, Santa Fe, N. Mex., January 20, 1972.

Senator John L. McClellan,

U.S. Senate, Committee on the Judiciary, Subcommittee on Criminal Laws and Procedures, Washington, D.C.

DEAR SENATOR McCLELLAN: I appreciate the opportunity to review and comment on S. 2994 (the "Victims of Crime Act of 1972") and related materials and

wish to make the following suggestions for changes in S. 2994:

1. The coverage provided for in this Bill should be broadened to include all Criminal Justice System officials, not just law enforcement officers. This recommendation is based upon killings and other incidents in New Mexico and elsewhere, including the recent shooting to death of a District Attorney and the threats of personal injury to Penitentiary officials in this State.

2. The compensation provided in the Bill should be awarded only to direct dependents of the slain official (in the IRS definition of dependents), unless that

official has specified some other party or parties.

Basically, I am in favor of this proposed legislation and wish to inform you that a House Bill is being introduced in the present session of the New Mexico State Legislature which, if adopted, would enable this State to participate in this proposed federal compensation program.

Sincerely yours,

NORMAN E. MUGLESTON, Director.

GOVERNOR'S COMMITTEE ON CRIME,
DELINQUENCY AND CRIMINAL ADMINISTRATION,
Providence, R.I., January 18, 1792.

Senator John L. McClellan, U.S. Senate, Committee on the Judiciary, Washington, D.C.

DEAR SENATOR McCLELLAN: This letter is in response to your recent communication regarding Senate Bill S. 2994, the "Victims of Crime Act of 1972."

The Rhode Island Governor's Committee on Crime, Delinquency and Criminal Administration endorses the concept of compensation to innocent victims of violent crime.

Rhode Island's Governor, the Honorable Frank Licht, is presently studying proposed legislation to be introduced in the Rhode Island General Assembly during the present session that would initiate a Rhode Island program to meet the financial needs of the innocent victims of violent crime.

Certainly, the use of the established network of LEAA National and Regional offices, and their formalized routes of communication with State Planning Agencies, is the logical route to follow in implementing an Act such as the "Victims of Crime of 1972."

However, the Federal-State responsibility of administering this proposed program to be carried out through the Law Enforcement Assistance Administration and the State Planning Agencies, will require specific additions of staff to LEAA, and particularly to the already understaffed State Planning Agencies.

I look forward to the enactment of such legislation in the Congress to establish a more effective remedy for the victim of violent crime than a traditional

action in tort.

With kind regards, I remain. Very truly yours,

JOHN J. KILDUFF, Executive Director.

PLANNING COMMITTEE ON CRIMINAL ADMINISTRATION, Hartford, Conn., January 24, 1972.

Hon. John L. McClellan, U.S. Senate, Committee on the Judiciary, Subcommittee on Criminal Laws and Procedures, Washington, D.C.

Dear Senator McClellan: Thank you for forwarding me copies of bill S. 2994. I appreciate being given the opportunity to make comments about this

proposed legislation.

First, let me state that I am in full agreement with the philosophy of compensating innocent vitcims of violent crime and providing insurance programs with death and disability benefits for public safety officers. This type of legisla-

tion is long overdue.

However, I have mixed emotions to using established avenues of Federal-State responsibility under the Law Enforcement Assistance Administration. Although established avenues may be the best approach, I have reservations whether the Law Enforcement Assistance Administration is the proper arena. The PCCA is committed to the Law Enforcement Assistance Administration Program. We would not want to see it fragmented, and I fear that more amendments may only create a mongrel.

Once again, thank you for the opportunity to express my personal reaction to

this proposed legislation.

With best wishes, Sincerely,

H. R. STERRETT, Executive Director.

GOVERNOR'S COUNCIL ON CRIMINAL JUSTICE, Tallahassee, Fla., January 20, 1972.

Hon, John L. McClellan,

Chairman, Subcommittee on Criminal Law, and Procedures Committee on the Judiciary, U.S. Senate, Washington, D.C.

Dear Senator McClellan: The staff of the State Planning Agency of the Governor's Council on Criminal Justice has reviewed carefully the proposed Senate Bill entitled "The Victims of Crime Act of 1972". We applaud the efforts of the senators who introduced the bill and feel that the implementation of the

types of programs called for under various titles are long overdue.

In reviewing sections of the Congressional Record pertaining to the introduction of this bill which were provided with your letter of December 21, 1971, it was apparent that the State Planning Agencies of the various states could conceivably, in some manner, become involved from both a planning and administrative standpoint in the implementation of the various sections of "The Victims of Crime Act of 1972". While we would welcome this legislation in the State of Florida, the State Planning Agency as it is presently staffed, would be hardpressed to provide the technical leadership for the implementation of the Act. It appears that several types of technical skills would be necessary to insure that the various sections of the Act were complied with and that its implementation was effective and successful. It is, therefore, felt that from a planning and administrative standpoint, funds should be made available to the states, quite possibly on a revenue sharing basis for the development of a capability to implement the various parts of the Act. This money could be made available to either the State planning agencies or to associated, but newly organized offices or commissions designed and staffed to handle statutory responsibilities for implementaion.

In summary, the staff of the State Planning Agency is of the opinion that due to the critical need for the programs to be established under "The Victims of Crime Act of 1972", an investment should be made in the recruitment and organization of personnel with sufficient expertise to insure effectiveness of the Act throughout the country. The opportunity to review the work of your Committee is greatly appreciated.

If this agency can provide further information, please do not hesitate to call

upon us at any time.

Sincerely yours,

JAMES R. STEWART, Director JAMES A. STEINHAUER, Programming Administrator.

STATE OF NORTH CAROLINA, DEPARTMENT OF NATURAL AND ECONOMIC RESOURCES, Raleigh, N.C., January 17, 1972.

Hon. JOHN L. MCCLELLAN. U.S. Senate. Washington, D.C.

DEAR SENATOR McCLELLAN: I have reviewed with interest the copy of Bill

S. 2994, the "Victims of Crime Act of 1972."

It is my humble opinion that the victims of crime have too long been neglected. Our nation has, and rightly so, zealously guarded the rights of the criminal through the use of minute technicalities in the law, and in so doing, inadvertently disregarded the rights of victims of crimes.

It is time to recognize the financial difficulties victims of crime are sometimes

placed in.

I agree with the legislation and feel the placement of responsibility for administration of the Act jointly on Federal and State under the Law Enforcement Assistance Administration is proper.

With sincere best wishes and kindest regards.

Sincerely,

W. B. JULIAN, Administrator, Division of Law and Order,

STATE OF NEVADA, COMMISSION ON CRIME, DELINQUENCY, AND CORRECTIONS, Carson City, Nev. January 18, 1972.

Hon. JOHN L. McClellan. U.S. Senate, Committee on the Judiciary. Senate Office Building, Washington, D.C.

Dear Senator McClellan: My small staff and I have received the proposed bills enclosed with your letter of December 21, 1971, and I wish to thank you for including us in your requests for comments.

Of the three bills proposed, I feel we would prefer S-2994 as it appears to have a broader based definition of law enforcement in that section dealing with

insurance for criminal justice personnel.

Undoubtedly some persons will attempt to take unfair advantage of the provisions granting compensation for victims of violent crime, but in general the bill seeks to cover a field that has been largely neglected in our sometimes ill aimed efforts to protect the rights of the person charged with a criminal act.

I recently viewed a television program designed to record the reactions of persons facing the death penalty, to the Supreme Courts consideration of the constitutionality of the penalty. The convicts reaction was to the effect that he felt a chill go through his body when he realized the Supreme Court was considering the legality of the death penalty. I often wonder what the reaction his victim might record had he not been forever denied the privilege.

The bill undoubtedly is not the ultimate, but is a step in the right direction

and is strongly endorsed by this office.

Sincerely,

CARROLL T. NEVIN, Director.

LOUISIANA COMMISSION ON LAW ENFORCEMENT AND
ADMINISTRATION OF CRIMINAL JUSTICE,
Baton Rouge, La., January 14, 1972.

Hon. John L. McClellan, U.S. Senator, Committee on the Judiciary, Washington, D.C.

Dear Senator McClellan: Reference is made to your letter of December 21, 1971 seeking my comments upon the proposed legislation S. 2994 and particularly the ultilization of established administrative avenues available under the

Law Enforcement Assistance Administration.

It is certain that a legal principle established by Hammurabi is well settled. It is equally well settled in my view that government intrusion into any field of private endeavor is not a good thing. Hopefully in this instance it will not be found necessary for the government to sell the insurance itself. With this part of the proposed bill I have major difficulty, although it certainly cannot be argued that the other provisions relating to indemnity for those who risk their lives is not vitally needed. Perhaps it may even prove true that the federal government's attempt to provide crime insurance to residents and merchants in high crime areas where coverage is either not available or is prohibitive is also desirable. Whether good or bad it will have some effect on keeping businesses from leaving these self-blighted areas.

In particular response to your request to comment on the utilization of LEAA for these purposes I feel that the more we diffuse the "safe streets" program the less emphasis we put on making the streets safe. We of course could handle this program under the LEAA machinery and this is preferable to setting up another federal bureaucracy but I question whether in so doing we are not over-burdening an agency in the Justice Department which has not yet demonstrated its capability to handle the initial "safe street" tasks. Rather than add more tasks to LEAA, Louisiana favors streamlining the present LEAA operation by concentrating the law enforcement and criminal justice aspects in the states, recognizing the fact that the original Congressional intent centered this program squarely

on the governor's commissions at state level.

In sum, I think the emphasis in crime insurance bill S. 2994 should be placed on "insurance" and not on "crime" and that the machinery utilized should reflect this view. All the interfaces in the proposed bill involving LEAA violate this concept.

With kindest personal regards, I am

Sincerely,

NEIL LAMONT. Executive Director.

Governor's Justice Commission, Harrisburg, Pa., January 7, 1972.

Re S-2994-Victims of Crimes Act of 1972.

Hon. John L. McClellan,

U.S. Senate,

Washington, D.C.

DEAR SENATOR McClellan: The Governor's Justice Commission looks upon your legislation to establish a means to compensate victims of violent crimes very favorably.

We are especially interested in Part B of the Act which would make Federal money available to the States through the Omnibus Crime Control and Safe

Streets Act of 1968.

On November 8, 1971, House Bill 1627, known as the Pennsylvania Criminal Injuries Compensation Act, was introduced in the Pennsylvania House of Representatives. This proposed legislation seems to be within the intent of your Bill and we would hope that both bills move to passage.

Sincerely yours,

E. DREXEL GODFREY, Jr., Executive Director.

MAINE LAW ENFORCEMENT PLANNING AND ASSISTANCE AGENCY. Augusta, Maine, January 11, 1972.

Hon. JOHN L. MCCLELLAN, U. S. Senate, Committee on the Judiciary, Washington, D.C.

DEAR SENATOR McCLELLAN: I have taken the liberty of sending out an overview of your bill, S. 2994, the "Victims of Crime Act of 1972," a summary somewhat of your introduction and the related documents introduced by Senators Humphrey and Kennedy. Although I have not had responses as yet from my Board of Directors nor Regional Coordinators who are involved in implementing the provisions of the Omnibus Crime Control Act of 1971, I do have some comments which are very favorable towards this legislation. All of us have been well aware of the position of victims of crime and certainly feel there is justification in this type of legislation. Those that have been victimized by lawlessness should not suffer to the extent they have in the past.

I believe that it would be unfortunate if the Congress did not recognize this as a responsibility that could be incorporated under the LEAA programs. The federal/state/local organizational structure already implemented and coordinated toward the improvement of the criminal justice system in the United

States has the capability of administering this program.

I commend you for your efforts in this area, and as soon as I receive responses from my Board of Directors, Regional Coordinators and their committees, I will send these on to you.

Sincerely.

JOHN B. LEET, Executive Director.

MAINE LAW ENFORCEMENT PLANNING AND ASSISTANCE AGENCY, Augusta, Maine, January 13, 1972.

Hon. John L. McClellan, U.S. Senate. Washington, D.C.

Dear Senator McClellan: Attached is the first response I have received regarding benefit programs for "public safety Officers." and other points described in your bill, S. 2994. This was submitted by one of the Board of Directors of this agency.

I will forward other replies as I receive them.

Sincerely.

JOHN B. LEET. Executive Director.

SHERIFF'S OFFICE, COUNTY OF CUMBERLAND, Portland, Maine, January 11, 1972.

Hon. JOHN L. McCLELLAN, U.S. Senate, Washington, D.C.

Dear Senator McClellan: I have reviewed very carefully the material with reference to benefit programs for "public safety officers."

This is the type of legislation that will certainly bolster the morale of public safety officers and relieve them of grave concern for their survivors should an

unfortunate incident occur.

I, personally, would be in favor of Title II, as I believe the State, as well as the Federal Government, should bear some responsibility. The percentage breakdown (75%-25%) as used by the LEAA under the Omnibus Crime Control & Safe Streets Act of 1968 would be a fair apportionment for the cost of such a program.

You and the co-sponsors are to be commended for your concern and thoughtfulness in presenting a meaningful program. Kindly accept my sincere thanks for allowing me the opportunity of reviewing these documents and comment-

ing on them.

Respectfully yours,

CHARLES SHARPE, Sheriff.

STATE OF SOUTH CAROLINA, OFFICE OF THE GOVERNOR,
STATE PLANNING AND GRANTS DIVISION,
LAW ENFORCEMENT ASSISTANCE PROGRAM,
Columbia, S. C., February 3, 1972.

Re S. 2994.

Hon. JOHN L. MCCLELLAN,

Senator, U.S. Senate, Committee on the Judiciary, Subcommittee on Criminal Laws and Procedures, Washington, D.C.

DEAR SENATOR McClellan: Reference your letter of December 21, 1971, where-

in you enclosed a copy of above-referenced bill for review.

The Governor's Committee on Criminal Administration and Juvenile Delinquency, State of South Carolina, in meeting on January 14, 1972, approved of Bill S. 2994.

The Governor's Committee on Criminal Administration and Juvenile Delinquency is the supervisory board for the Law Enforcement Assistance funded

programs in the State of South Carolina.

Very truly yours,

CARL R. REASONOVER,

n Criminal Administration

Executive Director, Governor's Committee on Criminal Administration and Juvenile Delinquency.

OFFICE OF THE GOVERNOR,
DELAWARE AGENCY TO REDUCE CRIME,
Wilmington, Del., January 17, 1972.

Hon. John L. McClellan, U.S. Senate, Committee on the Judiciary, Washington, D.C.

DEAR SENATOR McCLELLAN: Thank you for your letter of December 21 regarding the "Victims of Crime Act of 1972" and the legislation which would provide group life insurance programs for state and local government law enforcement officers and, third, the piece of legislation that would provide group life insurance for law enforcement and fire fighting officers.

My personal reaction is that these are all excellent proposals. However, I would like to see the group life insurance program expanded to include cor-

rectional officers.

I chair the National Governors' Conference committee on Crime Reduction and Public Safety which will be meeting in Washington on January 20–21. This body works very closely with the Governors' Committee on Crime Reduction and Public Safety regarding policy statements on upcoming legislation, Federal programs, and national goals and priorities that relate to crime and crime prevention. I have instructed Lanny Proffer, Staff Secretary to the task force, to invite Robert Blakey, Chief Counsel to the Senate Judiciary Subcommittee on Criminal Laws and Procedures, to our meeting on January 21 to discuss the proposed legislation that you have forwarded to me. I am sure that the task force members will have many questions that Mr. Blakey can answer. Following this meeting we will review this legislation with the Governors and thereafter present their position to you.

I am attaching a copy of the 1971-72 Policy Positions of the National Gover-

nors' Conference.

May I suggest that you obtain a copy of a study that was conducted on compensation to victims of crimes by the Massachusetts Correctional Association, 33 Mt. Vernon Street, Boston, Massachusetts. As I recall, that study listed the countries (England and New Zealand) and states that have adopted this program. England, to my recollection, established a commission with broad powers and a certain amount of money which they administered to victims of crimes. This commission, after a period of time, was to recommend specific legislation to parliament.

Unfortunately, I do not have a copy of this report. However, one can be ob-

tained by writing to.

Correctional Research-Victims of Violent Crimes.

33 Mt. Vernon Street

Boston, Mass.

Thank you for your interest in this matter.

Sincerely yours.

JOSEPH M. DELL'OLIO, Executive Director. 1971

Policy Positions

of the

NATIONAL GOVERNORS' CONFERENCE

September 1971

Office of Federal-State Relations 1735 DeSales Street, N.W. Washington, D. C. 20036

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INTRODUCTION

Policy positions on major issues facing the States and the Nation were adopted by the National Governors' Conference at its 63rd Annual Meeting held September 12-15, 1971, at San Juan, Puerto Rico.

Because these policy positions represent a significantly important consensus of the thinking and attitudes existing in the states' leadership, they are transmitted herein for your information, consideration and action, as appropriate.

In consonance with previously adopted resolutions, whenever reference is made in the policy statements to "the States," such language includes the fifty States and, when relevant, the Territories of American Samoa, Guam, the Virgin Islands, and the Commonwealth of Puerto Rico.

The Conference Executive Committee ruled that the policy positions adopted at the 1970 Annual Meeting would remain in effect unless specifically amended or deleted by subsequent action.

Thus, these policy positions are the combined product of last year's Conference, the subsequent work of six standing committees, the Conference Executive Committee's review, and discussion and action at the 1971 Annual Meeting.

In addition to these policy positions, the Conference's committees and staffs have produced committee reports and analytical materials in the areas covered by the policy statements.

Additional copies of policy positions and other related materials are available from the offices of the National Governors' Conference.

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A. - 1

ADMINISTRATION AND IMPLEMENTATION OF THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT

 a) Administration and Implementation of the Omnibus Crime Control and Safe Streets Act.

The National Governors' Conference commends the Law Enforcement Assistance Administration for its extensive and helpful cooperation with the States in implementing the Omnibus Crime Control and Safe Streets Act of 1968. Its actions in fostering the development of qualified staff at the state level, providing wide latitude to the States in developing plans for improving the entire criminal justice system, promoting a spirit of cooperation between the various criminal justice disciplines, and generally supporting the state partnership required in a bloc grant program sets an outstanding example that converted be emulated by other federal departments. Its efforts to insure the success of this first program embodying a true bloc grant approach to an intergovernmental problem are noteworthy. The National Governors' Conference further commends the LEAA for its reorganization plan designed to facilitate project review and decentralization by expanding the authority and responsibility of the regional offices.

Therefore, the National Governors' Conference expressly reaffirms its confidence in the LEAA program and urges the Congress to form a partnership with the Governors in working to strengthen the LEAA to assure effective intergovernmental action to deal with one of the Nation's most serious domestic problems.

b) Fiscal Policies

The National Governors' Conference strongly urges the Congress of the United States to provide increased funding for the Omnibus Crime Control Act to insure the effective accomplishment of intergovernmental crime control.

Insofar as it would contribute toward freeing state and local governments from onerous federal administrative and fiscal restrictions, we endorse those principles of special revenue sharing for law enforcement which would eliminate grantee matching requirements and dispense with the requirement of prior federal approval of state comprehensive plans as a condition precedent to allocation of funds.

A. - 2

STATE-CITY COOPERATION

The National Governors' Conference restates and reemphasizes its commitment to vigorous and effective action to control the burgeoning crime problems in the urban areas of our States. Recognizing that the plague of crime knows no jurisdictional boundaries, the Governors of the States pledge their active support to the comprehensive planning and intergovernmental action called for in the

STATE-CITY COOPERATION

Omnibus Crime Control Act of 1968. The Governors are firmly committed to the need for a working partnership with elected and other policy-making officials in the counties and municipalities of our States to accelerate efforts in developing comprehensive metropolitan crime control programs and facilities. We support and encourage voluntary state assistance to local governments for criminal justice programs.

A. - 3

CRIMINAL CODE REVISION

The National Governors' Conference finds that one of the most critical needs in the improvement of many states' criminal justice systems is in the revision, modernization and simplification of the criminal code, including a model sentencing code with emphasis on dealing with the offender as an individual rather than treating the crime. The Governors of the States pledge their commitment to request the State legislatures, in cooperation with the appropriate state and local criminal justice officials and members of the bar, to review and, where necessary, revise the State criminal code immediately, and at least once each decade thereafter.

The National Governors' Conference requests that the American Bar Association, together with other national organizations of the criminal justice bar and bench, provide professional leadership by assisting the States in this code revision effort. We urge careful consideration by all states of the American Bar Association Standards for the administration of criminal justice.

The Governors urge the United States Department of Justice to establish a clearinghouse for state criminal code revision efforts. This office should serve only as a source of advice and information-sharing among the States.

A. - 4

CRIMINAL JUSTICE SYSTEMS IMPROVEMENTS

The National Governors' Conference expresses its strong commitment to the integration and cooperation of all state and local crime control efforts into a streamlined efficient system of criminal justice administration:

A. To this end, the Governors of the States support, encourage and will pursue the following steps to aid law enforcement officials:

1. Personnel

a. Development of minimum statewide professional standards for police

CRIMINAL JUSTICE SYSTEMS IMPROVEMENTS

recruitment, training and performance, and improvement in law enforcement officers' salaries.

- b. Development of incentive or merit systems to insure recognition and advancement of those who excel.
- c. Recruitment and training of staff and auxiliary service personnel to relieve the law enforcement officers from clerical and support duties.
- d. Development of comprehensive law enforcement officer training programs to include operations, public administration, law, technology, available social services and human relations.
- Encouragement of educational advancement to work-study programs, inservice training, and scholarships for full and part-time professional study.

2. Resources

- a. Development of a statewide, integrated information and communications system to facilitate intergovernmental cooperation in crime control.
- b. Development of statewide or regional crime laboratories.

3. Relationship to the community

- a. Programs of public support and education to improve understanding and cooperation between the citizen and the law enforcement officer, including education programs at the junior and senior high school levels, to develop understanding of the criminal justice system.
- b. Increased recruitment for police service careers from among persons of all races and economic situations.
- B. To this end, the Governors of the States support, encourage and will pursue the following steps to improve the judicial process:

1. Personnel

- a. Request legislation establishing statewide professional and educational standards for all judges and court administrative officials, elected or appointed, to state or local courts.
- b. Establish statewide minimum salaries for all judges and court administrative officials.
- Establish procedures for the administration of judicial conduct, discipline and retirement.
- d. Institute statewide assigned counsel or defender systems, financed by the jurisdiction with has the responsibility for prosecution.

CRIMINAL JUSTICE SYSTEMS IMPROVEMENTS

2. Organization

Create unified systems with specialized branches where appropriate.

Procedures

- a. Improve jury selection systems by modernizing criteria for exclusion from duty, instituting better record-keeping, and increasing compensation for public service.
- b. Modernize archaic court procedures in areas such as providing expanded pre-trial discovery, extending prosecution's right to appeal from pre-trial rulings suppressing evidence, and providing simple state post-conviction procedure.
- c. Institute statewide procedures for promoting fair sentencing procedures consistent with policy of dealing with offenders as individuals.
- d. Institute procedures to require counsel for a parole violator.
- C. To this end, the Governors of the States encourage, support and will pursue the following steps to aid and improve the corrections system:

1. Personnel

- a. Commit additional resources to probation and parole sources to reduce the existing imbalance between institutional maintenance and field services.
- b. Improve recruitment, training and retention of correctional personnel by increases in salary, scholarships for professional training and intensive in-service training programs.
- c. Institute probation and parole services which make use of volunteers and some professional aides, including ex-offenders.
- d. Develop improved standards and procedures for parole decision making.

2. Institutions

- Establish and enforce statewide standards for jails and detention institutions.
- b. Provide separate detention facilities for juveniles and for women.
- c. House and process persons awaiting trial separately from convicted offenders.
- d. Provide separate treatment for individuals requiring specialized rehabilitation, such as narcotics addicts or alcoholics, on a regional or statewide basis.

CRIMINAL JUSTICE SYSTEMS IMPROVEMENTS

3. Programs

- a. Development of more intensive community treatment programs as alternatives to institutionalization.
- Upgrade basic education and vocational training for inmates, and institute programs for job development, placement, and follow-up.
- c. Design all rehabilitation programs so that they improve the re-entry of offenders into the community.
- d. The consolidation of the administration of state correction programs.
- e. Adoption of the Interstate Correctional Compact providing for regional and interstate cooperation for the development of correctional institutions and programs.

D. Total system needs:

- Development of mandatory statistical data collection and analysis for all components of the criminal justice system including police administration, court caseload, correctional data, and expenditures by state and local governments for criminal justice institutions.
- Development of a philosophy and treatment program whereby the offender is treated as an individual according to his needs and motivations.

A. - 5

THE PREVENTION AND CONTROL OF JUVENILE DELINQUENCY

The National Governors' Conference believes that any attempt to comprehensively prevent and control juvenile delinquency calls for bold, broad, basic and new approaches including redeployment of personnel and resources.

Commitment to the task of preventing juvenile delinquency requires:

- a. Commitment to long-term research and development adequate to cope with the complexity of the delinquency problem.
- b. A conscious broadening of the framework within which the problems are analyzed and remedies sought. There must be a willingness to examine and challenge all traditional operations.
- c. The significant involvement of youth in any community's effort to understand and prevent juvenile delinquency.
- Coordination of private and public services to youth including character building efforts and those geared to correction and rehabilitation.

THE PREVENTION AND CONTROL OF JUVENILE DELINQUENCY

- Focusing attention and efforts on youth at an earlier age than we have previously.
- f. A careful reevaluation of the unique role of the family in American societies.
- g. Realism about the cost of long-range preventive efforts.
- h. Establishment of vocational schools without severe standards and criteria to give every boy and every girl an equal education in the area of high rate unemployment.

In recognition of the key role which state governments play in the intergovernmental effort to prevent and control juvenile delinquency, the Governors of the States urge that each State undertake to provide leadership and funding for the coordination of planning and services of all state agencies which contribute to the prevention, control, and treatment of juvenile delinquency. Such coordination should encompass the states' effort under the Omnibus Crime Control and Safe Streets Act. Each State should emphasize and strengthen its commitment to programs designed to prevent delinquency, giving particular emphasis to home and school-centered programs aimed at youth who are in danger of becoming delinquent.

Because of the seriousness of the problem of juvenile delinquency and the need for major governmental action, the National Governors' Conference expresses its concern with the Juvenile Delinquency Prevention and Control Act of 1968. We find that it is poorly drafted as enacted, that it is inadequately funded, and that its administration is not properly coordinated with that of the Omnibus Crime Control Act. We urge that the Law Enforcement Assistance Administration be given increased funding to deal with juvenile delinquency treatment. As used in this context, juvenile delinquency treatment refers to the time after a child enters the juvenile justice system.

The more than seventy federal programs concerned with prevention of juvenile delinquency should be consolidated under a single agency administering a bloc grant for youth. As used here "prevention" refers to those systems and subsystems which are designed to keep the child out of the juvenile justice system.

A. - 6

ORGANIZED CRIME

The National Governors' Conference pledges full support and cooperation in the intergovernmental war on organized crime. To this end, the Governors of the States recommend the following actions by federal, state and local authorities:

a. Enactment of general witness immunity statutes at federal and state levels.

ORGANIZED CRIME

- b. Formation of organized crime intelligence units in the offices of appropriate state agencies designated by the Governor and in local law enforcement agencies.
- c. The continuation of federal technical assistance and training programs designed to assist in the development of competent staff for state and local jurisdictions, and the funding of federal assistance for development of state intelligence systems.
- d. The creation and financing of state level programs to investigate the problems of organized crime, including the infiltration by crime syndicates into legitimate businesses and state and local governments, by focusing public attention upon the problem by means of crime commissions and grant jury investigations.
- e. Enactment of the Model Criminally Operated Business Act as drafted by the Suggested State Legislation Committee of the Council of State Governments to prevent infiltration and takeover of legitimate business by the forces of organized crime.
- f. The drafting and publication by the same Committee of a Model State statute to implement appropriate procedures for wiretapping and electronic surveillance and investigation by authorized law enforcement agencies, and to implement the provisions of Title III of the Omnibus Crime Control and Safe Streets Act of 1968.

A. - 7

DRUG ABUSE

The National Governors' Conference is concerned with the extensive proliferation of the narcotics and drug abuse problem. Because of its multi-faceted nature and complexity, it is both proper and necessary that the problem be addressed by this Committee as well as the Committee on Human Resources. To combat the pervasive problem of narcotics and drug abuse, the Governors of the States recommend the following urgent efforts:

- 1. The Special Action Office for Drug Abuse Prevention recently created by Executive Order should be strengthened and sanctioned by Congress through enactment of legislation giving that office statutory authority to coordinate federal drug abuse programs; to develop goals, objectives and priorities for those programs and to cooperate with the States in a concerted attack on the narcotic and dangerous substance problem.
- - a. Grants courts and correctional authorities sufficient flexibility with user to permit individualized sentencing and treatment, and the imposition of appropriately severe sentences for pushers and sellers.

DRUG ABUSE

- b. Requires prompt disposition of the offender's case.
- c. Effectively unified all state drug control programs and coordinates all private and public efforts to control drug abuse.
- 3. Development of state programs for the rehabilitation and treatment of offenders requiring close supervision and control while correcting problems of drug abuse by providing alternative methods for disposition of drug users by the establishment of adequate facilities for both voluntary and involuntary admissions and for out-patient treatment programs.
- 4. In line with the objectives set forth by the Cabinet Committee on International Narcotics Control, the federal government should intensify its diplomatic efforts to halt the illegal importation of narcotic substances and promote international programs to reduce the production of such substances.
- The enactment of interstate compacts to further cooperation among the States in the control of drug and narcotics abuses.
- Public drunkenness should not in itself be a criminal offense. Disorderly and other criminal conduct accompanied by drunkenness should remain punishable as separate crimes.

A. - 8

THE CRISIS OF UNREST

The National Governors' Conference recognizes and supports the historic and constitutional right of all citizens to dissent from public policies, and to seek to change such policies through public assembly, and through the peaceful expression and exchange of views.

Violence and disorder are not justified in a democratic society. We condemn lawlessness on all sides, be it by those who dissent from public policies, those who support them or those who are called upon to keep or restore the peace. We affirm that the first responsibility of the peace-keepers is to protect the safety and lives of all those involved; however, we recognize also the correlative right of the peace-keepers in the discharge of his responsibility to use such force as may be necessary for their own self-protection.

We believe that change in a democratic society must be achieved through the calm and reasonable exchange of views. And to that end we urge greater dialogue and understanding among all segments of our society so that we might prevent the polarization of views, and the escalation of differences to the point of violence.

THE CRISIS OF UNREST

On the campus, we believe that the faculty and administration have the primary responsibility for the prevention of disorder and the preservation of the tranquility of the learning community. But we also affirm the right and responsibility of the State to act to restore peace both on the campus and in the larger community when other means have been tried and have failed.

We also pledge our efforts toward the constant renewal and revitalization of the institutions of our society ... not only in education but in government and business as well ... to prevent them from becoming impersonal toward the citizen, neglectful of the society, and brittle or unresponsive to each generation of Americans.

A. - 9

FIREARMS CONTROL

The National Governors' Conference, recognizing the varying requirements for firearms legislation in each State recommends and will pursue legislative enactment of:

- Federal and state laws controlling the transportation and possession of military-type firearms and ordnance, other than small arms.
- State laws prohibiting certain categories of persons, such as habitual
 alcoholics, drug addicts, mental incompetents, persons with a history
 of substantial mental disturbances, and persons convicted of felonies,
 from buying, owning, or possessing firearms.

A. - 10

NATIONAL CRIME REDUCTION GOALS

Using 1971 as the national base year, the National Governors' Conference calls upon the Congress and the federal government to join with Governors and local government leaders to give crime reduction priority attention and to commit the resources necessary to stop the growth of violent crime and reduce it by 50 percent of the peak year by 1981. In this context, violent crime refers to murder, non-negligent manslaughter, rape, robbery and aggravated assault.

In furtherance of these goals, the National Governors' Conference recommends that the national crime reporting procedures be revised to report the number of persons committing crimes.

A. - 11

RENAMING LEAA

In recognition of the Law Enforcement Assistance Administration's broadened scope and mission, the National Governors' Conference recommends that it be renamed the National Crime Reduction Administration, thus relating it to the quantifiable national goal of reducing crime.

A. - 12

EXTRADITION REFORM

The National Governors' Conference expresses its concern with the ever increasing number of extradition requests which pass through Governors' offices and the bewildering variety of forms and procedures utilized by the various States in the extradition process. The resulting delay serves neither justice nor efficiency.

We, therefore, request that the National Association of Extradition Officials study the problem and the various solutions that have been offered and propose model legislation if deemed desirable for adoption by the States.

A. - 13

THE NATIONAL GUARD

The National Governors' Conference recognizes the unique role of the National Guard as the primary reserve force for both the Army and the Air Force in our Nation's defense and as our emergency law enforcement and disaster backup for state civil authorities. We reaffirm our belief in the National Guard militia system which has supported and sustained the United States throughout its history as the most fitting, economical and effective method of providing military support to both State and Nation.

We are, therefore, concerned over the ability of the National Guard to maintain authorized strength as reliance upon the draft is lessened. Greater emphasis and support must be given to incentives to enlist and retain members in adequate numbers with a proper balance of experience and leadership.

The National Governors' Conference further endorses the recommendations set out in the accompanying report by the Subcommittee on the National Guard.

REVENUE SHARING

The National Governors' Conference went on record in 1965 in support of the principle that the Federal Government share a portion of its revenue with the States, unfettered as to functions for which it is to be used. The Conference reiterates its stand on this matter, and further recommends, consistent with the criteria approved by the Conference in 1968, that a revenue sharing plan be formulated on the following basis:

- (1) Congressional appropriations for revenue sharing should be made on the basis of the federal individual income tax base.
- (2) Congressional appropriations for revenue sharing should be made to a trust fund established in the Treasury of the United States.
- (3) The sums appropriated should be allocated among the States, based primarily on population adjusted by relative state and local tax effort. The relationship between the taxing ability and the percentage of federally-held and administered land acreage in each State should also be considered.
- (4) Congress in its appropriations to the States should specify a pass-through formula to local governments. Eighty percent of the monies which are for distribution to local governments should be passed through automatically according to formula to eligible local governments; twenty percent should be passed through to eligible local governments on application of these units to the States, and should be available for programs at the local level which encourage cooperative or joint efforts of local governmental units to solve a common problem.
- (5) The federal pass-through formula should provide for sharing revenue only with general purpose units of government.
- (6) The allocation by formula should be made to relatively populous cities and counties based on population and the ratio between the total receipts from all taxes imposed by eligible cities or counties and the total receipts from all taxes imposed by the State and its political subdivisions. The portion of any State's allocation which would be available for local governments within the State would depend upon the portion of total tax revenue raised by the State and that raised by the eligible local units in the State. An alternative state allocation plan of distribution should be accepted if (a) each city and county receive an amount equal to or greater than that allocated by formula, or (b) city and county councils or governing bodies representing fifty percent of those entities entitled to receive at least fifty percent of payments by formula concur in the State's alternative plan.
- (7) No functions should be excluded from expenditures made from shared funds.

The Executive Committee is directed to employ every means available toward the immediate and favorable enactment of revenue sharing.

STATE AND LOCAL BONDS

The municipal bond market is a vital source of funds for financing the capital expenditure requirements of state and local governments. In order to meet the strong and growing demand for new and expanded capital facilities faced by these governments, it is imperative that this market provide a dependable source of funds at reasonable rates of interest. To this end we recognize the desirability of broadening the market for state and local bonds.

Specifically, at the federal level we urge Congress to enact legislation: (1) to permit mutual funds holding municipal bonds to pass the exemption through to their stockholders; and (2) to require a portion of the reserves of the Unemployment Trust Fund to be invested in municipal securities.

At the state level we encourage where feasible and relevant the examination of state initiatives such as: (1) the state bond bank; (2) constitutional and/or statutory changes in debt and interest rate limitations; (3) collateral deposit requirements in municipal bonds for insurance companies; (4) direct issuance of low denomination bonds; and (5) public finance assistance departments.

During the last several years, we have witnessed a growing number of bills introduced in the Congress which would shift state and local borrowing from the tax-exempt to the taxable market. In most cases, federal agencies would act as intermediaries between state and local governments and the public in marketing municipal bonds. Regarding further Congressional action in this area, we recommend the following criteria:

- Use of any federal credit assistance programs by state and local governments should be entirely voluntary.
- Such assistance should be free of federal interference and intervention in matters of state and local concern.
- 3. Such assistance should be simple, dependable, and free of delay.
- Such assistance should not be viewed as an alternative to federal grant assistance where the latter is appropriate and necessary.

The committee reasserts that such proposals should not in any way impair the access of state and local governments to the tax-exempt market or infringe upon these governments' independence in debt financing.

INTERSTATE TAXATION OF BUSINESS

For a number of years the National Governors' Conference has expressed opposition to federal legislation which would restrict the taxing jurisdiction of the State and provide preferential tax immunity to favored multistate businesses, and has expressed full support for legislation which would give congressional approval to the enactment of the Multistate Tax Compact by the States.

This Conference now goes one step further in supporting an expanded and/or specific version of a congressional consent bill for the Multistate Tax Compact to allay expressions of concern in the Congress that the original consent bill set out only a broad statement of purpose, and to counter claims that the States were seeking a sort of blank check in the area of multistate taxation.

The Conference therefore urges Congress to enact legislation, drafted by the Advisory Commission on Intergovernmental Relations in collaboration with the Council of State Governments, which incorporates the Multistate Tax Compact and expresses congressional consent to enactment by the States of a compact substantially the same thereto, plus the following additional provisions:

- (1) The three-factor formula (Uniform Division of Income for Tax Purposes Act), developed by the National Conference of Commissioners on Uniform State Laws, is made mandatory for net income taxes upon States which have not enacted the Compact by July 1, 1971;
- (2) States are given jurisdiction to require collection of sales tax by sellers making interstate deliveries into a State if the seller makes regular household deliveries there; and
- (3) Income taxes may be imposed on congressional salaries only by the district and State represented by the Congressman.

B. - 4

TAXATION OF INDUSTRIAL DEVELOPMENT BONDS

The Conference recognizes that so-called industrial development bonds have been used for non-governmental purposes. Unfortunately, federal legislation adopted in 1968 to remove the tax-exempt status of industrial development bonds erroneously included in its definition some traditional governmental functions and thus made them taxable under this legislation. The Conference reiterates its 1968 resolution urging legislation properly to redefine industrial development bonds.

NEW APPROACHES TO FEDERAL-STATE PARTNERSHIP

Since social and economic problems transcend state boundaries, states have long worked together in efforts to solve them. Most major problems today, however, also require federal cooperation and assistance.

Federal-state partnership in regional problems has taken the form of the interstate compact and the regional commission. The Appalachian Regional Commission has successfully brought thirteen states and the federal government together to plan and administer programs in health, education and transportation, assisted by substantial federal block grants.

Although legislative authorization for the Appalachian Regional Commission and regional commissions authorized under Title V of the Public Works and Economic Development Act has been extended, there is need for a thorough review of the regional concept. As problems of underdeveloped areas and interstate-metropolitan areas become more complex, it is certain there will be an increased demand for an extension of multi-state administration of programs dealing with these and other problems. The National Governors' Conference recognizes the vital need of effective mechanisms for solving such problems. Any new national legislation should include the following basic points:

- --Allow the establishment of regional commissions as agreed upon by the federal government and the states involved;
- --Provide for Governors to share decision-making authority equally with federal representatives;
- --Make federal participation directly responsible to the President, and state participation to the Governor;
- --Provide adequate funds for initial planning and policy development, and adequate authorization for the future appropriations after the priorities of each commission have been determined; and
- -- Should not be used as a substitute for revenue sharing.

B. - 6

FEDERAL ROLE IN STATE PLANNING

Planning has always been a vital element in the decision-making process, and in recent years much effort has been made at the federal and state levels to improve the methods by which it is done. The Federal Government has shown its concern and interest by many programs of assistance to state and local governments for planning. However, many problems have arisen: a multiplicity of planning grants with different federal requirements; uncertain funding; and no integration of plans, especially at the federal level.

FEDERAL ROLE IN STATE PLANNING

The National Governors' Conference urges that:

The Congress and the Administration should take immediate action to correct the confusing, contradictory, duplicative and overlapping mass of federal requirements and definitions concerning both long-range and annual operational plans. Federal agencies should recognize the Governor as the chief state policymaker and planner responsible for the coordination of all statewide and multi-jurisdictional sub-state planning. The elected heads of local government should be recognized in the same capacity for all state and federal programs operating within their jurisdictions.

An appropriate share of the funds of each functional federal grant program should be made available to the Governor for the purpose of relating functional plans to each other, to statewide goals and policies and to local development policies. This effort should begin with HEW which has thirty-nine programs, each requiring a statewide long-range or annual operating plan.

Major federal planning assistance programs should provide for forward funding on a two or three-year basis; minimum annual funding for each State; interprogram service agreements; evaluation machinery; technical assistance, training and tuition fees as eligible project costs; and minimum standardization and coordination of federal planning definitions and requirements.

B. - 7

INTERGOVERNMENTAL COOPERATION ACT

The National Governors' Conference commends the Congress for passage of the Intergovernmental Cooperation Act of 1968, which among other things, provides for keeping Governors and Legislatures informed of federal grant-in-aid rules and regulations, provides a means to obtain flexibility in administration of the "single state agency" requirement, provides flextwility in state banking of federal funds, authorizes federal agencies to render technical assistance and training services to state and local governments on a reimbursable basis, and provides for federal coordination with local authorities regarding land use.

The Conference is gratified at the action of the U.S. Bureau of the Budget in providing directives for implementation of this Act through Circulars A-95, A-96 and A-97. Governors should especially note Circular A-95, which encourages the establishment of clearinghouses and review procedures through which federally aided local and regional planning and development projects can be coordinated with State activities, and projects of different state agencies can be coordinated with one another. This Circular may potentially be used to enhance the ability of the Governor to coordinate the management of state programs.

The Conference urges Congress now to extend the principles of intergovernmental cooperation by enacting legislation which would establish procedures to allow the simplification of accounting, auditing and reporting of federal assistance funds; authorize the President, subject to congressional veto, to

INTERGOVERNMENTAL COOPERATION ACT

consolidate federal assistance programs within agencies; allow joint funding simplification for the packaging of grants for the same or related programs; and provide for periodic congressional and executive review of grant programs to determine their effectiveness.

B. - 8

TRAINING

The growing complexity of state government programs and of the many intergovernmental programs in which states are involved, is placing an enormous burden upon state officials and employees responsible for the over-all management and unity of state operations. Training is a necessary part of equipping these officials and employees to carry out their responsibilities.

The National Governors' Conference commends the Council of State Governments for strengthening its training activities: the Conference notes the successful seminar held in 1968 and 1970 for newly-elected Governors and their aides, the continuing work of the Council in providing policy-oriented training for Governors' personnel, the newly established training program for legislators and legislative staff, and the recent collaboration with organizations of local officials to provide training on matters of intergovernmental concern. The Conference urges further intensification of these efforts.

The Intergovernmental Personnel Act of 1970 will help to strengthen state and local training programs. This legislation provides a major opportunity to establish statewide personnel training and development programs in cooperation with local officials. However, the opportunity directly depends upon prompt and affirmative submission of state plans for training to the U.S. Civil Service Commission.

B. - 9

CLEARINGHOUSE FOR STATE CONSULTING HELP

All Governors have on occasion needed the temporary assistance of persons from outside their state governments to bring a different perspective to policy issues as well as to bring to bear technical knowledge and experience in various fields of state government. Although private consulting firms and universities have been used to help provide this assistance, a major reservoir of talent, largely untapped, is the State Governments of the Nation. The use of this talent would be of benefit both to the State receiving help and, through broadening the experience of the personnel involved, to the State supplying the expertise.

CLEARINGHOUSE FOR STATE CONSULTING HELP

The National Governors' Conference requests that its Secretariat establish a clearinghouse to enable States to draw upon the experience and talents in the State Governments by helping States define their problems with precision and clarity, and identifying employees in state governments who are qualified to provide effective assistance.

B. - 10

FEDERAL AID INFORMATION SYSTEMS

There is a critical need for a better exchange of information between levels of government as a result of the continuing growth of federal assistance programs. Great progress has been made by the States in creating information systems for their decision makers. Additional progress has been made by the federal government under the Intergovernmental Cooperation Act of 1968 and subsequent implementation guidelines.

However, it is increasingly clear that further progress could be greatly enhanced by developments at the federal level which are unifying and coordinating in effect. It seems evident that clear commitment from the Office of Management and Budget, with strong support from the States, could result in substantial progress in the following areas:

- Early involvement of the states in federal spending decisions directly affecting state budgeting, through continuing information flow to policy levels.
- Action toward uniform data requirements and formats among federal agencies.
- 3. Technical assistance to State and local governments in developing uniform information systems and more effective management techniques. Vigorous assistance from the federal level would implement the States' desire for information systems which are compatible both among the States and between states and the federal government.
- Sustained funding for model projects whose purpose is to develop techniques and systems for effective management in many areas of government.
- 5. A continued emphasis on the elimination of federal agency policies requiring single purpose or designated use of federally supported data processing facilities. At present, state central management staff may be denied the use of state functional agency equipment because of regulations promulgated by counterpart federal agencies.

FEDERAL GRANT-IN-AID OMNIBUS

The National Governors' Conference acknowledges the importance of federal grants-in-aid in the financing of state and local programs. These aids now amount to nearly one-fifth the total federal domestic budget and one-fifth of total state expenditures. Aid programs have proliferated in the past several years and now number over 1000 separately funded activities.

The number of programs and the large amounts of dollars involved make imperative the proper administration of these programs so that the national objectives toward which they are aimed can be achieved. Many of the policy statements of this Conference deal with this issue with respect to individual programs. The federal government — the President, Congress, and the administering agencies — should work closely with state officials in developing appropriation and administrative procedures to provide maximum flexibility in carrying out program objectives and maximum certainty of federal action. Specifically the Conference endorses the following concepts:

- Utilization of the block grant approach for new aid programs in support of broad national purposes.
- 2. Fundamental reorganization of a large number of existing programs into several broad areas on a permanent basis. Grouped programs would be those that share a consistent pattern of purpose. The following provisions represent concepts embodied in this type of proposal:
 - Automatic allocation of grant funds by careful and meaningful formulas rather than narrow project specifications.
 - Flexible and dependable formulas for passing certain funds directly to local governments.
 - Deletion of matching and maintenance of effort requirements as a prerequisite to receiving aid.
 - Clear definition of the state as critical to program coordination, planning and evaluation, with gubernatorial review replacing cumbersome federal approval processes.
 - Reasonable transitionary stipulations such as hold harmless clauses, which would guarantee state and local jurisdictions at least as much revenue from each new program as from the total of the old programs being consolidated.
- Joint funding simplification, to allow federal agencies to cooperate with state requests to combine several grants in the administration of one state program.
- Appropriations consonant with authorizations, to provide a greater degree of certainty in the amount of funding to be expected.
- Advance funding for at least two years, especially for construction projects, so that the necessary contracts can be let with assurance of fulfillment.

FEDERAL GRANT-IN-AID OMNIBUS

- Annual appropriations prior to start of fiscal year, to provide the states sufficient lead time for planning the program and hiring the staff.
- Resolution by the President and Congress of their divergent policies on appropriations and expenditures by procedural or structural means.
- Full consideration of the special needs of Puerto Rico, the Virgin Islands, American Samoa and Guam be given by Congress in the distribution of fiscal aid funds.

The National Governors' Conference asserts that any changes in the grantin-aid system must be directed toward the simplification of the machine. The mechanisms of federal assistance must not be allowed to impede the intent of that assistance. The National Governors' Conference supports the President's special federal assistance review program for the streamlining of the administrative mechanisms used to process and distribute federal funds. Further, the National Governors' Conference asserts that economic, social and ecological challenges can be grasped and grappled with at state and local levels, and that operational changes in aid programs must allow and encourage problem-solving ability at these levels.

B. - 12

REGULATION OF INSURANCE

It is long established national policy to leave to the States the basic task of regulating the insurance industry. The States have demonstrated an ability to do a creditable job of regulation, and in the aggregate the insurance industry is well regulated.

The National Governors' Conference opposes federal legislation which would create a federal bureaucracy for the regulation of insurance, and Congress should be ever-mindful of the States' role in this important area. If corrective national legislation is necessary, the National Governors' Conference stands ready to work with Congress to achieve positive results.

B. - 13

SUB-STATE DISTRICT DEVELOPMENT

Sub-state districting is an issue of growing concern to state and local elected officials. The essence of the concept is the creation of a statewide system of multi-jurisdictional planning units, composed of elected officials or appointed representatives, and provided with a professional staff. The concept is basically an organizational one. It proposes a structure which cuts across the array of substantive programs, enabling elected officials to effectively coordinate the use of federal, state and local resources in solving statewide problems.

Although the sub-state district is essentially an aggregate of local governments, the critical catalyst must be applied by state government, since the ability to designate district boundaries, enact enabling legislation, and provide needed financial and technical support lies at the state level.

At the federal level, two Office of Management and Budget Circulars have been specifically addressed to this problem (Circulars A-95 and A-98). However, further progress at all levels is virtually prohibited by the uncoordinated and competing array of federal aid programs operating at the sub-state level and having their own rules, regulations, and guidelines for organizational structure, policy board representation, program coverage, and staffing arrangement. The following actions should be undertaken to assure progress:

- The Office of Management and Budget should give more serious attention and staffing to the implementation by federal agencies of Office of Management and Budget Circular A-80 and A-95 concerning sub-state district organizations.
- Each state should give serious consideration to the enactment of state legislation that would better enable local, general purpose governments to cooperate in the solution of areawide problems.
- State agencies should use these sub-state districts for the administration of state programs to the greatest extent possible.
- Federally supported sub-state district organizations should be made responsible to those organizations authorized by the state and established and operated by local officials.

B. - 14

FEDERAL EXECUTIVE REORGANIZATION

The National Governors' Conference, in taking notice of current proposals to reorganize the Executive Branch of the federal government, supports the general concept of restructuring the mechanism of government in ways which

FEDERAL EXECUTIVE REORGANIZATION

better meet the needs of the people and facilitate inter-action between the levels of government - federal, state, and local.

The Conference has long argued for clearing away the proliferation and confusion of federal grant-in-aid programs and is on record supporting actions to simplify their administration. Reorganization of the Federal Executive Branch can contribute to that objective if properly carried out.

The National Governors' Conference is concerned that certain specific concepts be followed in the consideration and enactment of any federal reorganization:

- Existing departments, agencies, and commissions should be grouped into single new departments, structured according to broad but similar purposes.
 - To facilitate accountability and proper coordination of the diverse but related programs within such departments, the departmental secretaries must have full authority for all of the department's functions including power to delegate and transfer responsibility both among programs and to the field.
 - To facilitate better interaction between state and local officials with federal agencies, decentralization of both authority and accountability to regional offices must be accomplished.

The Conference strongly supports the basic purposes of the reorganization proposals of 1971 consistent with the above principles and urges the Congress to enact legislation which supports and implements these concepts.

C. - 1

PREAMBLE

The Committee on Human Resources has reviewed the policy statements adopted by the National Governors' Conference in 1970. The Committee reaffirms these basic policies and urges prompt action to implement them. Because the Social Security Amendments of 1971 (HR 1), which has passed the House of Representatives and is now before the Senate, will, if enacted, have a major impact on the existing welfare programs and on state and local governments, the Committee on Human Resources wishes to comment specifically on this proposed federal legislation.

The Committee believes that HR 1 represents significant progress towards bringing about an improved welfare system. Specifically, the Committee on Human Resources supports the following basic concepts incorporated in HR 1:

- Increased recognition of the responsibility of the Federal Government for welfare and of the fiscal crisis of state and local governments caused in large part by increased expenditures for welfare.
- The establishment of federally financed minimum national benefit levels and uniform national eligibility standards for the fully federally financed program.
- Steps to correct the inequities in the present system which result in it being financially advantageous not to work and which therefore discourage those who are working.
- Requirements for registering for and accepting private employment, job training, or participation in a program of public service employment.
- Federal administration and increased federal financing of programs of cash assistance for the aged, blind, and disabled.
- Extension of Medicare benefits to recipients of disability benefits under the Social Security Program.
- 7. Increase in Social Security benefits.

However, it is urged that HR 1 be amended to:

- Recognize the necessity for benefit levels to be adjusted for cost-of-living increases and therefore provide for full federal financing of these increases.
- Extend the basic program to childless single persons and childless couples which are now included in general assistance programs.
- 3. Recognize the greater fiscal burden of those States which are

PREAMBLE

providing a benefit level higher than the national minimum and provide for federal financial participation in the cost of financing supplementary payments.

- 4. Give States and localities the option to establish public service work programs under which recipients of public assistance not otherwise employed in private jobs, enrolled in training programs, or participating in a public service employment program, would be required as a condition of eligibility to perform public service work to improve the quality of community services in areas such as conservation, sanitation, day care, hospital care, etc. Such work would be performed at a rate not less than the applicable minimum wage.
- 5. Change the provisions related to the accounting period for determining eligibility so that it is based on actual needs, and therefore avoid shifting costs resulting from immediate needs of recipients to state and local general assistance programs.
- Remove the limitations on federal participation under Medicaid for long term care in mental hospitals and the administrative discretion to reduce federal participation in the cost of skilled nursing home care.
- 7. Remove provisions limiting the amount of federal reimbursement for costs of providing social services. Federal funds should be provided for comprehensive social services including such services for former and potential welfare recipients.
- States should be provided the option of administering the cash assistance program without financial penalties.

The Committee on Human Resources wishes to make clear that its support of basic concepts of HR 1 does not alter the basic position previously adopted by the National Governors' Conference calling for federal assumption of all costs of welfare on a phased basis. The Committee believes this is critical and will continue to work toward the achievement of this goal.

The Committee also wishes to make clear that it does not view the attainment of this goal as a substitute for general revenue sharing. The magnitude of the fiscal crisis of state and local government is so great that 100 percent federal financing of the welfare programs would not provide sufficient fiscal relief for state and local government to be able to meet urgent needs.

Although revenue sharing is not within the specific responsibility of the Committee for Human Resources, the Committee, as it did at the 1971 Winter Meeting of the National Governors' Conference, wishes to express its support for a general revenue sharing program. It is essential that such a program provide funds to the States as well as to local governments. The fact that the proposed federal welfare legislation would provide some fiscal relief to some States is no reason for excluding

PREAMBLE

States from a revenue sharing program. In the first place, many States, particularly those which now bear a large proportion of the cost of the welfare program, will receive little or no relief. But of greater importance is the fact that exclusion of the States could have a disastrous effect on the future of our federal system. It could have a very real effect of reversing one of the healthiest recent trends in state and local relations, the increasing willingness of state government to help solve urban problems.

As a result of its review of the 1970 Policy Statements, the Committee on Human Resources submits for adoption by the 1971 Annual Meeting of the National Governors' Conference the following indicated revisions and additions which are required in the light of current developments.

C. - 2

WELFARE REFORM

- Substitution, on a phased basis, of a federally financed system
 of welfare payments for the current federal-state program for the aged,
 blind, disabled, and dependent children, and including also the general
 assistance programs now financed by the States themselves. A rational
 system should:
 - a. Take into account the full impact of the total range of direct and indirect aid to the poor.
 - b. Include national eligibility policies which take into account all sources of income and provide for a workable work incentive.
 - c. Establish reasonable national standards of assistance with reasonable regional or geographic differentials.
 - d. Provide for expanded job training and adequate public service employment programs with adequate federal funds.
 - e. Provide for adequate day care programs for children of parents who are working or in training programs with provisions for a central state role and a comprehensive state plan, and which would not bypass States in the administration of such programs.
 - f. Allow for state administration without financial penalties if the State chooses to administer the program.
- 2. Increase in the present levels for all payments under the Old Age Survivors Disability Insurance Program, with a minimum payment of \$100 per month per person.
 - 3. Transfer the present Old Age Assistance, Aid to the Permanently

WELFARE REFORM

and Totally Disabled, and Aid to the Blind programs to the Social Security Administration, with payments being made from federal general revenues to cover the increased cost.

- 4. Review by the Secretary of Health, Education, and Welfare of Federal regulations as to their adverse effect with respect to the following:
 - a. The use of the declaration system for determining welfare eligibility. Any such system, if mandated by the Federal Government, should provide the States with appropriate options and flexibility as to form and content.
 - b. The continuation of welfare payments during the pendency of appeal to persons whose grants are reduced or who are determined ineligible.
- 5. We support improved federal and state efforts to combat hunger and malnutrition, including the improved administration and coordination of present food programs involving:
 - a. Development and federal assistance in implementing state plans to combat hunger and malnutrition, especially as related to the most vulnerable groups such as infants, pre-school children, and pregnant and nursing mothers.
 - b. The development of effective state and local delivery systems and organizations for food programs.
 - c. Adequate funding by the Federal Government to provide free or reduced price lunches and breakfasts to schools, summer recreational programs, and day care centers.
- 6. The Federal Government should continue to assist States in funding and developing social services authorized under the Social Security Act for present and potential welfare recipients, children and adults in need of protective services, families and individuals with social and behavioral problems, and the handicapped and the disabled. Such social services programs should involve:
 - a. The continuation of the primary responsibility for planning and administration of such programs by States without bypassing state governments, and reserving to the States decision-making authority as to the level of social services to be provided.
 - b. Federal funding for administration of cash assistance, social services, and related staff training under the Social Security Act not being arbitrarily limited to some percentage of a previous year's federal expenditures in a State.

C. - 3

HEALTH

- 1. Adoption by the Federal Government of a national universal health insurance program as the primary method of keeping rising health costs from preventing all people from receiving the medical care they need. Such a program should utilize the existing private enterprise medical system. Publicly paid programs such as Medicaid should be used only as a secondary program for those who have used up their insurance benefits. Medicaid should be 100 percent federally financed.
- 2. Expansion of federal and state programs of grants and loan payments to encourage the development and rehabilitation of health facilities particularly in low-income areas where maternal and child health care is inadequate.
- 3. Review of the formula for the allocation of federal funds for the construction and modernization of health facilities to assure that the funds are being devoted to meeting the Nation's most urgent needs.
- 4. Assurance that the allocation within a State of federal funds for the construction and modernization of the various types of health facilities be based on priorities developed by the State and be in accordance with plans developed through state comprehensive health planning.
- 5. Placement of responsibility for comprehensive health planning in the Office of the Assistant Secretary of Health and Scientific Affairs of the U. S. Department of Health, Education, and Welfare. Such a designation by the Secretary of HEW would be complementary to the major responsibility and reliance placed on such efforts by Governors and enhance the possibilities of achieving a federal-state "partnership" for the improvement of health services.
- 6. We oppose proposed cuts in federal funds for care in mental hospitals and skilled nursing homes under the Medicaid program. At the minimum, steps should be taken to insure that these cuts are not merely passed back to state and local governments in the form of increased expenditures.
- 7. Removal of ceilings on the amount of federal expenditures for Medicaid in the Commonwealth of Puerto Rico and the Territories.
- 8. To enable citizens to have a choice as to the type of health care systems they may utilize and to provide the opportunity for government to develop various means to control health costs, the States should make possible the provision of health care through prepaid group practice Health Maintenance Organizations (HMO), and the federal and state governments should consider steps which would encourage the development of such Health Maintenance Organizations and other alternative health care systems in addition to the traditional fee-for-service, private practice system.

HEALTH

- 9. Prompt federal action to provide federal funding of programs for alcoholism prevention, treatment, and rehabilitation. Such funds should be available for:
 - a. Formula grants for States on the basis of population and need.
 - b. Project grants for demonstration, service, and evaluation projects, education training programs, and a wide range of services in the community.
 - c. Coordination of project grant applications from within any State through the single agency designated by the State as the alcoholism authority.
 - d. Federal grants for persons seeking training in alcoholism treatment and rehabilitation and for programs in professional schools.
 - e. Incentives for increased utilization of existing health resources (hospitals, health nurses, etc.) in alcoholism treatment programs and for providing services within traditional helping systems public health, public welfare, vocational rehabilitation, and social agencies.

C. - 4

EDUCATION

- 1. Assumption by the Federal Government of far greater responsibility for the financing of education. Such increased federal financial participation should take the form of general grants to the States for educational purposes. Both the legislation and federal regulations for such a program should leave maximum flexibility to States and localities to develop programs to meet their most urgent needs. The basic purpose of such a program would be to help meet the rapidly rising basic cost of education, not to stimulate new supplementary programs. Such programs should not mandate the creation of any new state or local administrative mechanisms.
- 2. Adequate advance funding of existing federal programs commensurate with critical educational needs.
- 3. Consolidation of existing federal grant-in-aid programs for education into broad functional categories, thereby increasing the ability of States and localities to design programs within broad federal policy guidelines to meet critical needs in individual States and localities.
- Maximum administrative simplification of planning, application, allocation, accounting and reporting procedures for all consolidated

EDUCATION

grant-in-aid programs to assure that the intended purpose of consolidation of grants is not subverted through detailed administrative requirements.

- 5. We support the President's action in establishing an intergovernmental commission on school finance broadly representative of local, state, and federal officials and educational personnel to furnish guidance to the Congress, executive branch of the Federal Government, and the States for most effective educational programs, and actions should be taken to provide for continual review of the goals, quality, and cost of our educational system.
- 6. Provision in federal programs for joint federal-state-local development of standardized statistical data and other information necessary for sound analysis of educational needs and programs. Such standardized and comparable data is essential for educational planning at all levels of government. We urge the Administration to provide adequate funding for the National Center for Educational Statistics, and for state efforts to redesign and clarify state and local inputs into the National Center.
- Immediate funding of student loan program by guaranteeing interest at the prime rate on student loans.
- 8. The Federal Government should not cut back the funding of the National Defense Education Loan.
- 9. We support enactment of a comprehensive program of federal support for community colleges, vocational-technical schools, and comprehensive community colleges or their equivalents. Such legislation should assure:
 - -That any such legislation take into account the diversity of state higher and post-secondary education structures.
 - -That community colleges be an integral part of the total higher and post-secondery education programs of the States.
 - -That programs be administered through state agencies designated as responsible for post-secondary and higher educational planning.
 - -That such legislation not call for the creation of new and additional competing state higher educational agencies.
- 10. We support enactment of a federal program for early childhood development which would provide adequate federal financing and with provisions for a central state role and comprehensive state plan, and which would not bypass States in the admininstration of such programs and would permit maximum flexibility for States to determine standards and requirements.
- 11. Removal of "set-asides" on the amount of federal expenditures for education in the Commonwealth of Puerto Rico and the Territories.

C. - 5

MANPOWER TRAINING AND DEVELOPMENT

- Enactment of federal legislation which would consolidate federal manpower programs, provide for flexible funding of these programs, and enable the States to coordinate all manpower training and development activities within a State.
- 2. Review by Governors of the state administrative structure for manpower programs to assure that each State has (a) an effective mechanism to develop a comprehensive statewide manpower plan and (b) an agency which has the capability to administer a unified system of manpower services.
- 3. Establishment of a national computerized job bank which would provide information regarding available jobs and job applicants.
- Provision for systematic review and assessment of the effectiveness of manpower programs.
- 5. Establishment of State Manpower Training Staffing Centers with federal financial support to assure an adequate supply of trained personnel to plan and administer manpower programs.
- 6. Increased efforts by States to work with private business to increase job opportunities for the disadvantaged. Specifically, Governors should work with the National Alliance of Businessmen in the development of a statewide "JOBS" program.
- 7. The National Governors' Conference has called for the enactment of comprehensive federal manpower legislation which would coordinate federal manpower programs. The Conference also endorses a strong State role in manpower programs so that they can be effectively coordinated. If, however, the State is to be given a major responsibility in the area of manpower, it must also be given adequate authority to meet this responsibility. Federal legislation must assure that States are allowed sufficient flexibility to develop, in close cooperation with local officials, the most effective administrative structures possible.
- 8. We support the concept of a federally financed program of public service jobs leading to regular private or public employment. To help achieve the ends sought and to ease the integration of the new program into structures contemplated under prospective manpower reform legislation, we urge that:
 - a. The program, to the degree possible, should (1) entail regular manpower planning processes, statewide plan requirements, and the use of appropriate existing state administrative structures and (2) provide States with important coordinating and operating authority—including the option of a single statewide delegation of program authority.

MANPOWER TRAINING AND DEVELOPMENT

- b. A long-range commitment be made, through prospective manpower reform or other federal action, to absorb enrollees from lapsed projects.
- 9. The Conference also urges the evolution, at the federal level, of:
- Unified consideration of the whole range of federal manpower and related services authority and programs.
- b. Greater integration or coordination of related activities within and among federal departments.
- c. Greater legislative authority and admininstrative willingness to allow States options to interrelate any of a broad range of federal manpower and related human resources programs to more effectively meet the needs of those to be served.

C. - 6

NARCOTICS AND DANGEROUS SUBSTANCES

The National Governors' Conference recognizes the growing epidemic of drug abuse and addiction and the need for consideration of this problem by this Committee as well as the Committee on Crime Reduction and Public Safety. It further recognizes that this problem is a national crisis and not limited to any geographic, social, or economic group. Therefore, the following steps are recommended:

- Federal and State Government should cooperate in the development of a coordinated attack on the narcotics and dangerous substances problem. Such an effort should include law enforcement, prevention, and treatment.
- 2. Prompt diplomatic action should be taken by the Federal Government to reduce the illegal importation of narcotics and other drugs.
- 3. States, in cooperation with local governments, should undertake a major public preventive education campaign involving a broad range of community resources including local schools to assure that the true nature of drugs and addiction is well known.
- 4. Prompt federal action should be taken to provide federal funds for programs and services which would;
 - Assist States to develop and expand planning and administration of drug abuse programs.
 - b. Assist States and communities to provide programs and services to drug abusers through:

NARCOTICS AND DANGEROUS SUBSTANCES

- (1) Planning for comprehensive treatment systems;
- (2) Promoting realistic public attitudes toward drug abusers; and
- (3) Developing referral, treatment, and after care services appropriate to the needs and resources of each community.
- c. Make available a full range of treatment resources to all addicts who can benefit from it. Substantial federal financial resources should be devoted to the funding of a broad range of flexible state and local programs.
- 5. The States should join with the Federal Government in an effort to determine the basic underlying causes of the growing drug abuse problem. Such a study should examine the underlying social issues which may lead to addiction as well as the causal processes which promote initiation, continuance, termination, and relapse in drug usage.
- 6. We urge cooperative efforts among the States in developing regional programs to increase the effectiveness of efforts to combat addiction. Special potential is seen for coordination of administration, communication, laboratory facilities, and treatment programs.
- 7. We urge the Federal Government to meet its responsibility to develop programs to rehabilitate all those members of the Armed Norces who are addicted. The discharge of an addict after a brief detoxification period and without more adequate military support of divilian programs would impose a severe and unjust burden on the States and localities. The Federal Government could contract with the States to provide the rehabilitative services.

C. - 7

THE AGE OF MAJORITY

The National Governors' Conference commends Congress for the enactment of the Voting Rights Act Amendments of 1970 granting 18-year olds the right to vote in federal elections.

The National Governors' Conference also commends Congress and the thirty-eight States which ratified the 26th Amendment of the United States Constitution for their roles in securing this Amendment to the Constitution which grants 18-year olds the right to vote in state elections.

In furtherance of this goal of extending to our young citizens, 18 years of age or older, their full rights and responsibilities and the opportunity to participate fully in our society, we urge that each State consider lowering the legal age of majority for purposes in addition to voting to 18 years of age.

NATIONAL GOALS ARE NEEDED

There is a need for the President and Congress to set national goals in the fields of ecology, environment, conservation, and population. It would simplify the direction of state and local efforts if they could mesh their goals with national goals. These goals should stand out as signal flags on the halyards of our ship of state so that all could see them and understand them.

D. - 2

STRONG STATES IN THE FEDERAL SYSTEM ARE NEEDED

There must be a constant recognition of the need to place as much responsibility as possible in planning and action at the state and local levels, including such action that might necessitate interstate compacts. The unique abilities of state and local government to recognize priorities at the grass roots level should be respected and understood by the Federal Government. State Governments should be permitted to set higher minimum standards than the Federal Government in the fields of environmental management and conservation.

The States need as much flexibility as possible in adjusting state and local programs to those needs unique to the area, economy, etc. Therefore, the bloc grant approach to federal planning and action funds disbursement is preferred over categorical grants.

D. - 3

MORE RELEVANT EDUCATIONAL EFFORTS IN ENVIRONMENT, CONSERVATION, AND POPULATION ARE NEEDED

We must recognize the urgent need for the teaching of environment, conservation, and population as a major basic educational requirement in primary, secondary, and higher education. Curricula of traditional offerings at all levels of education need to be examined for their relevance to the rapidly changing conditions of environment, natural resources, and population.

MORE RELEVANT EDUCATIONAL EFFORTS IN ENVIRONMENT, CONSERVATION, AND POPULATION ARE NEEDED

The competition for students' attention to a wide range of study matter should not be allowed to prevent a full understanding of the natural forces at play on this planet. Too often in the past, students have not been adequately taught the subjects of environment, conservation, and population and have not learned the interrelationship of these subjects. Yet failure to understand this relationship could possibly spell mankind's doom if informed action based on knowledge is not taken by the public.

States should require a constant updating of educational curricula in order to strengthen the offerings in environment, conservation, and population.

D. - 4

A NATIONAL VOLUNTARY POPULATION DISTRIBUTION POLICY IS NEEDED

The United States needs to develop a national policy on voluntary population distribution. It is now projected that the population of the United States will rise from 200 million people at present to more than 300 million people by the year 2000.

Our Nation has practiced population distribution incentives in the past through such devices as the Homestead Act. A new and fresh approach to population distribution at the present time is needed.

The social and economic problems of overpopulated areas include ghettos; poverty; mass transit demands; overloaded educational, health, and recreational services; pollution of the air and water; increased crime; and a growing level of individual frustration and nervous tensions.

On the other hand, underpopulated areas are suffering high economic and social costs as well. These costs are brought on by an inadequate tax base and too few people to support necessary institutions on a community basis such as schools, churches, hospitals, recreational areas, etc.

Environmental management and conservation become excessively costly because of the severe population imbalance between the overpopulated States and those which are underpopulated.

The Federal Government, through its inadvertent and uncoordinated planning and programs, is one of the major factors in creating population imbalance.

There are remedies that should be attempted to alleviate population imbalance. Subsidized low interest rates could be offered on loans for industrial expansion in underpopulated areas. Manpower training programs to assure an employee supply to industries which would expand outside of congested areas could be implemented. A revamping of the Interstate Commerce Commission freight rates, which now make economic expansion virtually impossible in some underpopulated areas, could be adjusted to permit industrial expansion in underdeveloped areas.

A NATIONAL VOLUNTARY POPULATION DISTRIBUTION POLICY IS NEEDED

Federal tax incentives might be given to industries that locate away from overpopulated areas. Special federal grant programs to strengthen the desirability of living in underpopulated areas might be made. Grants for educational, health and recreational services necessary in order to attract people to live in areas now considered underpopulated would lessen the cost and burden of trying to provide these same services to the same people if these people are attracted to densely populated areas.

D. - 5

NATIONAL AND STATE COASTAL ZONE POLICY PLANNING AND MANAGEMENT ARE NEEDED

The coastal zone presents one of the most perplexing environmental management challenges. The thirty-one States which border on the oceans and the Great Lakes contain seventy-five percent of our Nation's population. The pressures of population and economic development threaten to overwhelm the balanced and best use of the invaluable and irreplaceable coastal resources in natural, economic and aesthetic terms.

To resolve these pressures, two actions are required. First, an administrative and legal framework must be developed to promote balance among coastal activities based on scientific, economic, and social considerations. This would entail mediating the differences between conflicting uses and overlapping political jurisdiction.

Second, efforts must be made to gain additional knowledge of the nature of the coastal zoning and the multiple effects that different uses would have upon our environment.

States must assume primary responsibility for assuring that the public interest is served in the multiple use of the land and water of the coastal zone. Local government cannot be expected to cope with the broad spectrum of interrelated coastal problems, nor can local political subdivisions be expected to make their judgments consistent with those of many interlocking political jurisdictions.

Coastal States, because of unique conditions existing along their shorelines, have advantages in coping with coastal zone planning and management that the Federal Government does not have. The Federal Government, however, should establish incentives and assistance to help the coastal States prepare plans and action.

The ultimate success of a coastal management program will depend on the effective cooperation of federal, state, regional, and local agencies. At the federal level, this would require the development of goals and an administrative framework which would avoid the existing duplication, conflict, and piecemeal approach that is too often typical of federal planning assistance programs. Any federal legislation which attempts to establish a coastal program must allow State's the necessary flexibility for creating management instruments most suited to their specific conditions.

NATIONAL AND STATE COASTAL ZONE POLICY PLANNING AND MANAGEMENT ARE NEEDED

Basic to a coastal management program are the funds necessary to plan and take action. The requirements for coastal zone management are so urgently needed in the Nation's interest that federal monies must be made available to the States at a level which will not only provide incentive, but will allow an adequate program to be developed based on federal, state and local participation.

Any attempt to diminish the federal financial participation or to shift the burden to the States will result in irreparable delay and inadequacy in bringing under control the serious coastal environment and natural resource conservation problems.

D. - 6

A CHANGE IN NATIONAL ATTITUDES TOWARD NONREPLACEABLE NATURAL RESOURCES IS NEEDED

There is a growing need to establish a new attitude in America among consumers which differentiates between quality of living and standards living, as well as quantitative consumption and quality of living.

For example, we should examine the wisdom of our present system of reduced electric power rates as a reward for heavy consumption when that consumption might be beyond the electric consumption needed for a specific business or residence.

A flat rate for an adequate amount of electric energy based on the size of family or industrial need could be established. Sharply rising rates for electric consumption above the adequate standard set would provide a penalty for that waste which does not contribute to our economy or to the quality of living.

The consumption of nonreplaceable coal in the thermo-generation of electricity which is wasted does not add to the quality of life and is an example of squandering natural resources without significant benefits to mankind.

Waste of fresh water cannot be tolerated indefinitely. Less than 1 percent of the water on the face of the earth is potable. In the face of rising populations and per capita water use, we are faced with the need to conserve our precious water resources by eliminating unnecessary waste. Wasted water adds nothing to our quality of living.

The same principle which applies to the wasteful use of electric energy and potable water can be applied to the use of petroleum products in our automobile engines. States should consider a policy of encouraging smaller but adequate engines through sharply graduated license fees which discourage larger than necessary engines that do not contribute to the quality of living. There are far too many vehicles in use today which wastefully consume the non-replaceable crude oil resources and add unnecessary pollutants to the air.

The national attitude which equates some forms of waste with a high quality of life needs to be changed. Waste does not add to the quality of life, but in fact denies a high quality of life to future generations.

STATE LAND USE PLANNING IS NEEDED

There is an interest and need for a more efficient and comprehensive system of national and statewide land use planning and decision-making. The proliferating transportation systems, large-scale industrial and economic growth, conflicts in emerging patterns of land use, the fragmentation of governmental entities exercising land use planning powers, and the increased size, scale and impact of private actions have created a situation in which land use management decisions of national, regional and statewide concern are being made on the basis of expediency, tradition, short-term economic considerations, and other factors which are often unrelated to the real concerns of a sound land use policy.

Across the Nation, a failure to conduct sound land use planning has required public and private enterprise to delay, litigate, and cancel proposed public utility and industrial and commercial developments because of unresolved land use questions, thereby causing an unnecessary waste of human and economic resources and a threat to public services, often resulting in decisions to locate utilities and industrial and commercial activities in the area of least public and political resistance, but without regard to relevant environmental and economic considerations.

The land use decisions of the Federal Government often have a tremendous impact upon the environment and the pattern of development in local communities. The substance and nature of a national land use policy ought to be formulated upon an expression of the needs and interests of state, regional, and local government, as well as those of the Federal Government. Federal land use decisions require greater participation by state and local government to insure that they are in accord with the highest and best standards of land use management and the desires and aspirations of state and local government.

The promotion of the general welfare, and to provide for the full and wise application of the resources of the Federal Government in strengthening the environmental, economic and social well-being of the people of the United States, we believe, is a continuing responsibility of the Federal Government, but should be consistent with and recognize the responsibility of state and local government for land use planning and management.

There should be undertaken the development of a national policy, to be known as the National Land Use Policy, which shall incorporate environmental, economic, social and other appropriate factors. Such policy shall serve as a guide in making specific decisions at the national level which affect the pattern of environmental and industrial growth and development on the federal lands, and shall provide a framework for development of interstate, state and local land use policy.

The National Land Use Policy should:

- Foster the continued economic growth of all States and regions of the United States;
- 2. Favor patterns of land use planning, management and development which are in accord with sound environmental principles and which offer a range of alternative locations for specific activities and encourage the wise and balanced

STATE LAND USE PLANNING IS NEEDED

use of the Nation's land and water resources;

- 3. Favorable influence patterns of population distribution in a manner such that a wide range of scenic, environmental and cultural amenities are available to the American people;
- 4. Contribute to carrying out the federal responsibility for revitalizing existing rural communities and encourage, where appropriate, new communities which offer diverse opportunities and diversity of living styles;
- Assist State Government to assume responsibility for major land use planning and management decisions which are of regional, interstate, and national concern;
- Facilitate increased coordination in the administration of federal programs so as to encourage desirable patterns of environmental, recreational, and industrial land use planning; and
- 7. Systematize methods for the exchange of land use, environmental and economic information in order to assist all levels of government in the development and implementation of the National Land Use Policy.

Intelligent land use planning and management provides the single most important institutional device for preserving and enhancing the environment and for maintaining conditions capable of supporting a quality life while providing the material means necessary to improve the national standard of living.

D. - 8

FULL FUNDING AND IMPLEMENTATION OF STATE COMPREHENSIVE OUTDOOR RECREATION PLANS IS NEEDED

Remaining undespoiled natural areas of wetlands, forests, plains, deserts, and mountains are being exploited and despoiled at an alarming rate. The expenditure of outdoor recreational funds should not be diverted from the urgent need to acquire and protect these natural areas.

Crash funding programs that seek to carve urban parks in the midst of urban glut are dramatic examples of inadequate planning. The overcoming of inadequate planning in the past through crash programs should not be allowed, through the monopoly of limited funds, to perpetuate inadequate planning, insufficient preservation, and too little and too late acquisition for future generations.

Full funding and implementation of state comprehensive outdoor recreation plans is the best means of solving both short-run and long-run recreational problems of megalopolis.

A REVITALIZATION OF FORESTRY BY ALL OWNERSHIPS IS NEEDED

There is an urgent need to revitalize forestry efforts nationally on all ownerships. The timber supply situation has pointed up the need for strong direction by the Administration.

The future demands for lumber and forest products will provide increased competition between the many uses of a shrinking forest land base. There are presently substantial acreages of state, private and federal lands potentially capable of producing forest products, but are in need of reforesting.

Proven timber management practices could be instituted by the Forest Service and the Bureau of Land Management and other public and private forest management agencies to promote increased or high yield timber growth on existing timber-producing lands, provided funds were made available for this purpose.

The Federal and State Governments need to establish a policy to encourage reforesting of denuded publicly owned commercial forest lands.

Existing programs need to be strengthened to offer greater inducements for private landowners to reforest their lands. A great number of public values would thus accrue, beyond those to the landowner individually. Such benefits as establishing and improving watersheds and water quality, arresting soil erosion, improving flood control and stream sedimentation, wildlife habitat and recreational opportunities would result. The increased fiber would contribute to the housing needs of a growing Nation.

D. - 10

INTERSTATE ENVIRONMENT COMPACT

The National Governors' Conference urges federal enactment of the Interstate Environment Compact. This bill, introduced by Sen. John L. McClellan of Arkansas in the Senate (S. 907) and by Rep. Harold R. Collier of Illinois in the House (H.R. 4819), asks the consent of Congress to an interstate compact which would facilitate the subsequent establishment of "supplementary agreements" between the States for the purpose of taking joint action to abate pollution problems which affect more than one State. It would strengthen the ability of States to deal effectively with environmental pollution problems which ultimately affect the health and welfare of all the peoples of this Nation.

FEDERAL SUPPORT FOR STATE WATER POLLUTION CONTROL PROGRAMS

States are deeply committed to ending the pollution of our Nation's waters. To accomplish this purpose they are expanding their water pollution abatement programs and vastly increasing fiscal expenditures. In fact, States have already advanced over one and one-half billion dollars of the federal share for assisting municipalities to construct waste treatment facilities.

Only through full cooperation between federal, state and local governments with adequate funding and support for primary state planning, enforcement and standard-setting programs, will we succeed in cleaning our Nation's environment.

The National Governors' Conference, therefore, calls upon the Congress and the Administration to increase authorizations under the Federal Water Pollution Control Act and to appropriate the full amount so authorized. This should include provisions to reimburse States which have prefinanced the federal share of municipal plants.

D. - 12

STATE RESPONSIBILITY FOR RESOURCE MANAGEMENT

The States are in a unique position of responsibility for coordinating the development of our resources. Theirs is a prime responsibility for both planning and the commitment necessary for the judicious utilization of all resources.

Our society can no longer afford to allow the various agencies and organizations within the States to develop their programs without a strong commitment to the general welfare of all.

We the Governors call upon the States to undertake the development and implementation of comprehensive planning. State Governments must exert the leadership required to insure the protection of our environment as we search for a balance between environmental quality and needed economic development.

MORE EFFICIENT PROCEDURES FOR PROCESSING ENVIRONMENTAL IMPACT STATEMENTS ARE NEEDED

We the Governors of the States recognize and endorse the concept of environmental impact studies on projects using federal monies, as a necessary and effective means to insure the preservation of environmental quality.

By law the Federal Government requires the States to have a clearing-house to handle Environmental Impact Statements. We call upon the Federal Government to adopt a clearinghouse to process the statements which interested departments are required to examine.

Furthermore, there should be an office at the regional level which has the responsibility to handle routine impact studies as well as act as a clearing house to expedite the processing of statements. If the responsibility cannot be delegated to the regional bodies, then the Council on Environmental Quality must develop the ability to handle Impact Studies in an expeditious manner to prevent unnecessary delay.

E. - 1

ADOPTION OF A COMPREHENSIVE NATIONAL COMMUNITY DEVELOPMENT POLICY

Community Development Policy with the effectuating funds, agencies and programs. The Policy should provide the means whereby federal, state and local elected officials should participate directly in the formulation of national policies and goals and the establishment of major strategies and programs for implementation of such policies and goals. The formulation and implementation of such national community development policies in coordination and consonance with state development policies is essential to achieve the objectives of balanced growth.

A National Community Development Policy should embrace the major areas and issues of concern for the quality of life within the United States. The most basic components for consideration in the formulation of this policy are policies relating to population growth and distribution and to economic development. Other components are policies relating to allocation of natural resources, agriculture, transportation, housing, human resource development, and financing and administration -- all established in a manner that will support policies concerning these two basic components.

E. - 2

ADOPTION OF A NATIONAL POPULATION GROWTH AND DISTRIBUTION POLICY

There should be an adoption of a National Population Growth and Distribution Policy, developed in concert with state and local planning policies, to lessen the congestion, and reduce pressure, on the already overburdened resources of our cities, to offer opportunities for the free movement of all of our citizens to realize their maximum personal potential, to match manpower and job training programs with the needs for community development and to lessen the problems of transportation, environmental decay and social service delivery that are not being adequately dealt with for today's population. Such a policy shall be consonant with a rural-urban balance of needs and regional potentials.

E. - 3

ADOPTION OF A NEW COMMUNITIES DEVELOPMENT POLICY

To effectuate a population growth and distribution policy, there should be the adoption of a comprehensive New Communities Development Program which would include expanded communities, new-towns-in-towns and new towns as major components of a national policy designed to relieve growth stresses upon existing metropolitan areas and to promote growth in appropriate areas which have growth potential.

E. - 4

ADOPTION OF A NATIONAL ECONOMIC DEVELOPMENT POLICY

A National Economic Development Policy should be adopted to coordinate economic assistance measures with a national population growth and distribution policy, thereby providing the employment concentrations and economic base that will make such a policy workable, offering more efficient operating environments for industry and concentrated employment centers accessible to workers in either rural or urban areas. Such policy should provide additional incentives to private business and look to new ways that public and private interests can be combined to meet public needs. Congress should adopt a system of tax incentives to encourage business and industry to locate in non-metropolitan areas.

E. - 5

ADOPTION OF A NATIONAL AGRICULTURAL DEVELOPMENT POLICY

There should be a National Agricultural Development Policy as an integral part of a National Community Development Policy to assure the Nation it can feed itself and meet its responsibilities to other people in the world. Such a policy should reflect the importance of and a system for the preservation and maintenance of agricultural land for future supplies and as a necessary habitat for wildlife water resources and hunting and fishing, all of which are a necessary part of providing quality environment in consonance with a population growth and distribution policy. Further, this policy should focus attention on improving agricultural production capabilities, transportation, foreign market development, processing agricultural products near the source of production and efforts aimed at developing rural America.

In addition, Congress must act on a viable farm program to assure rural America "parity of opportunity" with the rest of the Nation.

ADOPTION OF A NATIONAL AGRICULTURAL DEVELOPMENT POLICY

Congress and the Administration should adopt the concept of stability and parity of resource earnings as the long-term policy goals for modern agriculture and then establish an appropriate vehicle such as a National Food and Fiber Board to develop the detailed production management programs necessary to insure an adequate supply of food and fiber for the future.

A new farm bill by Congress should be shaped to give rural producers an equal opportunity to share in the Nation's prosperity and growth as all other areas. A federal farm program should be continued by the Federal Government until the market can maintain an adequate price for producers.

A strong farm program is recognized as a deterrent to further out-migration from rural areas to crowded metropolitan centers, a necessary element for a growing economy, and vital to providing reasonable food prices for consumers while assuring a fair return for all agricultural producers.

The National Governors' Conference urges the federal government to take whatever steps are necessary to insure that sufficient public works funds are available under the Economic Development Act of 1965 so that rural areas will not receive less in the coming years than they did in the past as a result of the "special impact" provision of the recently passed amendments to that Act.

E. - 6

JOINT FEDERAL-STATE EVALUATION OF RURAL DEVELOPMENT PROGRAMS

The new Office of Intergovernmental Relations, in cooperation with the appropriate federal offices and the National Governors' Conference and local government groups, should evaluate the possibilities and mechanisms for better coordination and delivery of federal and State programs in rural areas. The joint evaluation should examine and make recommendations for action on the following issues:

- a. Avenues of cooperation between existing HEW, Agriculture, Commerce and HUD programs and state community development programs.
- b. Restructuring of federal field operations to support and complement emerging State and local efforts for comprehensive rural development. As federal departments decentralize, they should utilize to the fullest extent possible the personnel, administrative and technical services of state and local government rather than building up federal field staff to handle delegated authorities for decision-making accompanying the federal field office reorganization.
- c. Recognition of state designated multi-county planning and development districts, primarily composed of local officials, as the primary delivery system for most state and federal programs in rural areas.
 - d. Recognition and support of several States as pilot projects for the

JOINT FEDERAL-STATE EVALUATION OF RURAL DEVELOPMENT PROGRAMS

purpose of coordinating federal and state programs into a package of rural development services.

E. = 7

ADOPTION OF A NATIONAL LAND DEVELOPMENT POLICY

There should be an adoption of a National Land Development Policy providing guidance as to what lands are appropriate for urban development, agricultural production, conservation and open space and recreation. Such national policies must be related to the allocation and conservation of water, air, minerals and other natural resources and be an integral part of a National Community Development Policy.

E. - 8

ADOPTION OF A NATIONAL HOUSING POLICY

There should be an adoption of a National Housing Policy to coordinate housing investment and construction programs with a National Community Development Policy to carry out social objectives of making a place for all social and economic groups, to take advantage of the environmental and efficiency advantages of such a policy, to provide needed governmental aids for supporting housing construction and marketing, with special support programs to assist those who cannot secure decent housing through normal channels, to make maximum use of new technologies, and to stimulate additional investment by private industry and home property owners, thus adding to the overall housing supply, and to insure the availability of sufficient long-term mortgage financing. Such a policy should support positive efforts at the national, state and local levels to remove all racial discrimination practices which may impede the construction, sale or rental of housing. The problem of the availability of subsidized housing for low— and moderate—income families must be attacked on a housing market area basis.

E. - 9

EXPANDING THE HOUSING MARKET

All levels of government, in cooperation with private industry, should take action to expand the market for housing production. Special attention should be given to new methods of production, technological innovation, and marketing institutions in the private sectors and to simplified and flexible state housing codes, increased subsidies for low-income housing, land aggregation and tenant relation programs in the public sector. States should assist in the aggregation of public and private land for housing purposes.

E. - 10

CONSOLIDATION AND COORDINATION OF FEDERAL HOUSING PROGRAMS

The Administration and Congress should undertake the immediate streamlining and coordination of federal housing programs: (1) provide for full cooperation with emerging State housing instruments; (2) phase out, merge, and consolidate the numerous federal low- and moderate-income housing programs and provide incentives and illustrations for program packaging and mixing; (3) substitute State certification of federal program requirements with only a post audit by HUD; and (4) provide federal operating subsidies, as are now provided to federal housing projects, to State public housing projects.

E. - 11

SUFFICIENT FUNDING OF THE HOUSING AND URBAN DEVELOPMENT ACT

Congress should provide sufficient funding for the Housing and Urban Development Act, especially for Section 236 Interest Reduction, Section 235 Home Ownership, Rent Supplement, Public Housing Programs, and Urban Renewal.

E. - 12

COMMUNITY DEVELOPMENT GRANTS

The Congress and the Administration should adopt a program of Community Development Grants for all communities in need of assistance whether located inside or outside metropolitan areas. These grants should be:

- Allocated to large metropolitan cities and counties by means of a statutory formula, and funded according to statewide comprehensive plans;
- 2. Allocated to smaller cities and counties by state administrative discretion based on local need;
 - 3. Free of local matching requirements;
- 4. Allocated to cities and counties so as to assure that no jurisdiction receives less bloc grant funds than it has been receiving for the same purpose in previous years; and
- Statutorily free of requirements for the submission of detailed plans except for a post-audit review;
 - 6. Entrusted to elected officials of general purpose governmental units.

Cities and counties should be able to use Community Development Grant funds to carry out any of the activities now authorized under:

- Title I of the Housing Act of 1949 -- urban renewal, rehabilitation loans and grants, demolition, code enforcement and interim assistance;
- 2. Title I of the Demonstration Cities and Metropolitan Act of 1966 -- model cities supplemental grants;
- 3. Title VII of the Housing Act of 1965 -- water and sewer, neighborhood facilities, and advance acquisition of land; and
- 4. Title VII of the Housing Act of 1961 -- open space, urban beautification and historic preservation.

The funding level for Community Development Grants should be guaranteed to the cities for at least a three-year period in advance of appropriations. Cities located outside metropolitan areas should be reserved a percentage of the total appropriated for Community Development Grants in the same proportion as they currently receive for the programs to be consolidated.

States should be eligible to receive Community Development Grants if:

1. A state agency directly responsible to the Governor exists which is legally empowered by the state legislature to undertake the activities authorized

COMMUNITY DEVELOPMENT GRANTS

under the programs to be consolidated; or

 The Governor develops an acceptable plan for providing community development assistance to cities and counties outside metropolitan areas which would otherwise be eligible to receive Community Development Grants from the Federal Government.

E. - 13

REHABILITATION OPPORTUNITIES

Congress and the Administration should establish as part of a comprehensive Community Development Grant program a program to make better use of the existing housing stock. Such a program should:

- Include a home counseling service for prospective homeowners and home improvers;
- Authorize below-market rehabilitation loans for families living in designated "improvement districts;"
- 3. Authorize a Presidential Commission to study the impact present federal, state, and local taxes have on housing maintenance;
- Encourage States to develop their own housing redevelopment programs;
 and
 - 5. Provide grants to States and cities for rehabilitation purposes.

E. - 14

HOUSING MANAGEMENT

The federal and state governments are currently building public housing units at the rate of approximately 500,000 units per year. The training of professional housing managers for these units has not kept pace with the rate of construction. Additional emphasis should be placed on encouraging the development of housing management training programs. States should make available the facilities and expertise of state universities, departments of community affairs and housing finance agencies to assist in this effort.

E. - 15

UNIFORM FEDERAL RELOCATION AND LAND ACQUISITION POLICIES

The Uniform Relocation Policy and Real Property Acquisition Act of 1970, (P.L. 91-646) should be amended so as to delete all cut-off dates for the federal funding of the first \$25,000 of relocation expenses.

E. - 16

POLICY FORMULATION MECHANISMS

In order that formulation of a meaningful National Community Development Policy may be undertaken, the procedures of the Domestic Council should provide formal means for bringing the President, the Governors and local elected chief executives together on a regular basis to secure an exchange of views and information on National Domestic Policy and priorities. Further, the Council should give due consideration to the inclusion of the Governors and chief local elected officials in the regular meetings of the Council.

Representation of State and local interests among the staff must be assured.

The President will transmit to Congress his annual report and such supplementary reports as he deems necessary to advise as to progress in formulating a National Community Development Policy and suggested implementing actions.

In addition, a joint congressional committee on National Community Development Policy should be instituted. It shall make a continuing study of the annual report on National Community Development and its supplements, and study ways of coordinating programs in order to further the National Policy. The legislation shall require the committee to file a report annually containing the committee's findings and recommendations. The committee may make such other reports from the time as it deems advisable. To maximize citizen participation, the committee is encouraged to hold extensive hearings.

F. - 1

THE STATE ROLE IN BALANCED TRANSPORTATION PLANNING AND DEVELOPMENT

The Governors of the States pledge their continued action to deal with the expanding and changing transportation needs in the decade of the Seventies.

- We commend the U.S. Department of Transportation for relying on the States in the development of the National Transportation Needs Study. We urge the Federal Government to continue this cooperation by consulting fully with the States in development of a National Transportation Policy. We recommend full use of data contained in the Needs Study as a basis for setting continuing priorities in the National Transportation Policy.
- 2. We express appreciation to the Department of Transportation for its generally excellent communication with States. We urge that any consolidation of federal departments which would place the DOT in a larger agency should preserve the working integrity of existing federal transportation activities. We endorse the view that the transportation system is a primary factor in the development of our social, economic, and environmental conditions. For this reason, we support the concept that federal transportation programs be fully coordinated with these other concerns. However, we believe the existing functional agencies within the DOT should remain in one department.
- 3. We call upon all States to develop administrative and legal structures equal to the challenge of balanced, integrated transportation systems required by the citizens of our States. Many States responding to the need for a central agency have created departments of transportation to coordinate all modal programs.
- 4. We endorse in principle the program of transportation revenue sharing proposed by the national administration. Specifically, we believe the following provisions are vital: that each State is guaranteed its share of funds from each trust fund will not be reduced, either by a dimenished allocation to any State or by an automatic pass-through to local government which is greater than the existing amount now passed through by the State; that the federal government not be permitted to withhold trust funds or divert them from transportation purposes; that each trust fund which is part of transportation revenue sharing continue to be identified; that the interstate highway fund be made a part of transportation revenue sharing upon completion of the interstate system.
- 5. The Governor, as elected chief executive, is best able to determine the transportation needs and priorities of his State. Under revenue sharing or any other program which permits flexibility in expending federal transportation revenue, the Governor is the key decision-maker. He should have the ability to transfer funds among various programs to meet his own state's priority transportation needs. Therefore, in addition to transportation revenue sharing, we call for the creation of a single unified Transportation Trust Fund incorporating existing transportation revenues earmarked for use within a specific mode of transportation or by beginning a phased program of percentage transfers from the highway and aviation trust funds and other funds made available for transportation into the proposed unified National Transportation Trust Fund. Also, with the Governor being best able to determine the

THE STATE ROLE IN BALANCED TRANSPORTATION PLANNING AND DEVELOPMENT

transportation needs and priorities of his State, the distribution of the National Transportation Trust Fund should be allocated through the Governor.

 $F_{\bullet} - 2$

TRANSPORTATION AND THE ENVIRONMENT

The Governors pledge full cooperation in providing environmental impact statements on transportation construction. We also endorse the A-95 program which permits Governors to comment on the effect of any proposed public construction so duplication and waste, as well as environmental damage, may be minimized.

The Governors pledge a continued fight against the pollution of our environment by the wastes and by-products of our growing transportation system.

The Governors believe the following problems should be the subject of a sustained anti-pollution effort by the States and the Federal Government:

- Air pollution caused by gasoline powered automobiles, diesel trucks,. locomotives and ships, and aircraft fueled with kerosene and gasoline;
- Water pollution caused by the spillage from vessels of untreated sewage, oil from machinery and bilges, and crude petroleum spills from tankers;
- Land pollution caused by sewage discharge from railroad trains, by abandoned automobiles, by litter, and the scarring of landscape from removal of coal and other fuel sources;
- 4. Noise pollution and nuisance caused by aircraft, autos, trucks, railroad trains, and ships, and by heavy construction associated with transportation. Particular emphasis should be given to abating jet aircraft noise.

Perhaps in no other aspect of transportation is there a greater need for States to be free from restrictive federal preemption. The Governors call upon the Federal Government to provide effective minimum standards to protect the basic health and safety of every citizen, while leaving State Governments free to deal with the problems that have reached extraordinary severity, or to respond to citizen demands for a higher level of environmental quality than that which would be supported nationwide.

The Governors also recognize that federal, state and local governments have often been leading causes of pollution in forms such as sewage discharges, strip mines for aggregates, and inadequate exhaust controls on government vehicles. We pledge to reverse this situation so State Government may set an example in the area of pollution control.

The Governors pledge a sustained effort to develop a combination of laws and programs which will punish pollutors of the environment, while providing incentives where necessary to those whose efforts can combat environmental decline. The

TRANSPORTATION AND THE ENVIRONMENT

Governors call upon the federal government to join with the States in a vast research effort to measure pollution and to apply innovative technology in discovering new sources of energy and new techniques of reducing and disposing of wastes produced by our transportation system.

The Governors pledge increased emphasis in the design of highways and other transportation systems so that these facilities complement rather than conflict with the total environment in both its natural and man-made aspects. Further, programs for the preservation and development of historic and scenic vistas along transportation corridors should be encouraged by the reward of additional federal financial assistance for increased state and local action, rather than by the present threat contained in the Highway Beautification Act, of a ten percent penalty in highway funds. We oppose any federal penalties where Congress has failed to appropriate funds which have been authorized to aid states in carrying out these programs.

F. - 3

HIGHWAYS

The National Governors' Conference supports continued development of a national, state and local network of highways, streets and roads which are well planned, coordinated, and safe. Highways will continue to be the principal mode in America's transportation system.

The Governors urge the following action as part of the partnership between state and federal governments in highway construction:

- Funds from the Highway Trust Fund should not be suspended or withheld; and we hereby endorse actions of the Executive Committee in seeking court action to challenge the authority of the Executive Branch of the federal government to withhold distribution of Highway Trust Funds.
- Apportionments from the Highway Trust Fund should be made as soon as
 possible after the 1st of July for the following fiscal year to enable
 the States to adequately implement their highway construction program.
- The revolving fund within the Highway Trust Fund, set aside for the advance purchase of right-of-way, should be made available as soon as possible, and continued as a measure of economy and planning.
- 4. Federal fuel taxes should not be increased to the detriment of the States' ability to use the fuel tax as a source of revenue for the construction and maintenance of the highway system.
- Primary authority for coordination, planning and flexible distribution of trust funds within the States should continue to be at the state government level.

HIGHWAYS

- 6. An unbiased study should be made to determine the sufficiency of the planned 42,500 mile Interstate System in fulfilling the intent of the system as described in the 1956 act and developed since that time.
- 7. After completion of the present Interstate System, the Highway Trust Fund should be continued as part of the flexible fund described above. The basic purpose of the Highway Trust Fund in the post-Interstate period should be to strengthen the primary and secondary system, as well as urban systems. Completion of the Interstate system links the nation together as never before, thereby encouraging additional travel which has placed a heavy burden on those portions of the urban primary and secondary streets and road systemsthat are outdated and inadequate.
- We endorse the concept of developing a system of scenic highways to allow access to national and state parks and improved recreation areas.
- 9. We recommend that further study be given for methods by which States can implement the provisions of the Relocation Assistance Program contained in the Federal Highway Act of 1968. Intergovernmental cooperation is needed to overcome the many legal and administrative problems created by this program.
- 10. Transportation systems have a major role in implementing economic development and growth policies. Economic growth center highways can help reverse the depopulation of rural America and the overburdening of megalopolis, and we commend the Federal Government for its new program to construct such highways. However, the appropriation is totally inadequate and will be spent with little impact if limited funds are divided among all States. Instead, we urge these funds be spent on a small number of carefully selected demonstration projects.

F. - 4

HIGHWAY AND MOTOR VEHICLE SAFETY

The National Governors' Conference views with alarm the tragic number of preventable highway and traffic crashes and casualties. We urge the following action to strengthen the intergovernmental effort to make our streets and highways safe.

1. Congress, with the passage of the Highway Safety Act of 1966 and its amendments, has called for a comprehensive and coordinated attack upon the problem of highway safety. While Congress has mandated comprehensive action, sufficient funds have not been provided to meet the requirements of the Act. Action should be taken to bring the authorization and and appropriations up to a level to meet the mandates of the Act, unless highway safety activities can be funded from transportation revenue sharing or another flexible source.

HIGHWAY AND MOTOR VEHICLE SAFETY

- 2. We commend the National Highway Traffic Safety Administration for its efforts in moving toward a programmed approach for highway safety funds by adopting flexibility in administering the Highway Safety Program. We recommend that Congress amend the Highway Safety Act to allow for a true bloc grant approach.
- The present ten percent penalty clause in the Highway Safety Act should be replaced by a more positive incentive program to reward States with progressive highway safety programs.
- 4. In view of the preemption provision of the National Motor Vehicle and Traffic Safety Act of 1966 and in view of recent conflicts that have occurred in the setting of minimum vehicle equipment safety standards between the States and the National Highway Traffic Safety Administration, we strongly suggest more positive attempts by the NHTSA to involve the States in the setting of these standards. Such action would fulfill the original intent of the Congress that national as opposed to federal standards for vehicle safety equipment be established and conflicts between NHTSA and the States be avoided. This can be accomplished through the Vehicle Equipment Safety Commission, consisting of 44 States and charged with the responsibility of establishing vehicle equipment safety standards, and through regional conferences between officials of the NHTSA and the States.
- We commend the President for seeking the advice and consent of the Governors when selecting representation from individual states for his National Highway Safety Advisory Committee and recommend this procedure be continued.
- 6. There should be greater coordination of research conducted by the National Highway Safety Administration, the States and private industry. The National Highway Safety Administration should act as a clearinghouse and information source for such an exchange of information and should provide this information to the States. The Administration should consult the States when determining minimum standards for vehicle equipment, and should design standards which are sufficiently flexible to permit States to impose additional requirements where conditions warrant.
- 7. We recognize that over fifty percent of the highway fatalities are alcohol related and commend the National Highway Traffic Safety Administration for its efforts in developing new alcohol countermeasures and recommend the early implementation of these countermeasures, including use of the implied consent law.
- 8. Congress and the National Highway Traffic Safety Administration should evaluate the effectiveness of the current highway safety standards and determine if these standards should be modified, eliminated, or if new standards should be promulgated.

F. - 5

AERONAUTICS

The Governors express concern over the increasing load placed on our airport airways system. We commend Congress for enacting a major new program of financial assistance for airport development and we support the requirement contained in that program that each State develop an airport system plan. The concept of a state-wide plan does not preclude local and regional plans, but considers these as integrated parts of the state plan. The National Airport Systems plan must reflect essential elements of component state plans.

The Airport/Airways Development Act of 1970, by imposing new or increased taxes and user charges, particularly taxes on fuel, has preempted the collection of appropriate taxes and fees to support the State share of cost for airport development and improvement. Because of this, we urge Congress to increase federal aid to state and local sponsors for airport development, either through revenue sharing or bloc grants.

All States should join the 27 States which have adopted the "Uniform State Channeling of Federal Airport Funds Act", drafted by the FAA in cooperation with the Council of State Governments. We urge all States to broaden their financial and technical assistance in airport development thus strengthening their aeronautics function. We ask Congress to recognize the state role in the development of our aviation system and reflect this within the Airport/Airways Act.

The Governors are concerned by the inadequate pace of federal regulation to reduce aircraft noise. In some localized areas this noise level is so high that the States may be forced to act in protection of the health and welfare of their citizens. Unless decisive federal action is taken to reduce noise, state action may include a limitation on airport activity to the point where a tolerable noise level is achieved. Additionally, all States are urged to make every effort to encourage local communities to zone the land around airports to achieve land use compatible with noise. Further, the FAA should expand the aircraft noise certification program to include all aircraft. The FAA also should work directly with airport authorities on noise abatement.

The Governors endorse a policy of joint use of military airport facilities by civil aviation where feasible. This policy must be implemented at the highest federal level. We also call upon the federal government to join States in recognizing airports as a vital asset which must be protected from incompatible encroachment in urban areas. In some cases, the "land bank" concept must be used to preserve future sites. And privately-owned, public-use airports should be eligible on the same basis as publicity-owned facilities for federal assistance grants.

Many smaller communities are dependent on one carrier for commercial airline service. When that carrier is affected by a strike or other limitation, these communities can be left without vital service. Therefore, we urge the Civil Aeronautics Board to obtain greater assurance of continued service by the single carrier before granting route authority.

AERONAUTICS

There is need to set priorities and expend each of our aviation dollars in such a way that is most responsive to the total social demand. When establishing these priorities, every consideration must be given to equipping our nation's busiest airports, including the 530+ having air carrier service with the proper safety facilities, control towers, crash and rescue equipment, ILS glide scope, etc., to best insure the safety of the nation's air traveler.

F. - 6

URBAN PUBLIC TRANSPORTATION

States are employing broad and varied tools to aid public transportation systems. Every State has exercised its authority to form areawide public transit districts, and to grant them taxing authority and bonding powers. Several States are now providing direct capital grants for the construction of mass transit facilities. States are involved in providing operating subsidies, and States have used their powers of taxation and tax exemption to stimulate the development of transit service.

State action is a must because of the nature of mass transit problems. The State has the responsibility to give each urban region the assistance it requires, but also a responsibility to coordinate among the individual units in that region. The State can usually help resolve conflicts between city and suburban political subdivisions.

The development of adequate, modern systems of urban mass transit is essential to the continued life of the urban areas within our States. To accomplish this purpose, the National Governors' Conference urges the following action:

- Adequate funding of the Urban Mass Transportation Act of 1970 to meet the needs of both the large urban areas requiring subway or rail transit systems, and the growing urban areas requiring bus transportation facilities.
- We endorse the provisions made for urban public transportation as part
 of revenue sharing. However, it is recognized that the proposed transportation revenue sharing plan is not a substitute for a more adequately
 funded federal program for urban public transportation.
- 3. The federal assistance program should provide for channeling of transportation assistance funds through an appropriate state agency. The applicant for assistance under the Act should first receive State approval certifying his proposed project as part of or consistent with a statewide or regional comprehensive transportation plan.
- 4. The Governor or his designee should have authority to set priorities for the funding of public transportation projects within the State, and these priorities should be honored by the Federal Department of Transportation.

URBAN PUBLIC TRANSPORTATION

5. The Congress should act to exempt public and private transit systems from the federal gasoline tax, thereby providing these systems with a form of badly needed financial relief that has already been provided at the state level in several cases.

F. - 7

RAILROADS

The National Governors' Conference is concerned about the decline of the railroads as a major element in the American transportation system. The railroads are essential to the movement of persons and the vital flow of goods.

- 1. We are concerned with reduced rail passenger service. We urge a reassessment of basic passenger needs and adequate federal funding to meet these needs. In addition, there should be a more significant role for the States in the determination of necessary services and facilities for a balanced rail transportation system. We strongly urge the federal Congress to review possible expansions of the Amtrak route system at an early date, before 1973 as provided in present law, and we further urge Congress to provide adequate procedures and administrative mechanisms for independent review of Amtrak decisions as they affect the various States.
- 2. To support federal legislation creating a federal-state partnership in regulating the safety of our railroad system. We urge legislation providing for state regulation of all stationary railroad facilities including roadbeds, grade crossings, and station installation, and for federal financial assistance in this intergovernmental effort.
- 3. The Congress should conduct a complete investigation of present federal laws, regulations and policies now governing the railroad industry to determine what unnecessary regulatory and labor burdens and impediments are placed upon the industry, inhibiting its adequate maintenance and development. This study should include an examination of the role and policies of the Interstate Commerce Commission and the Department of Transportation, and it should study methods for maintaining inter-city service.
- 4. State and local governments should completely review their laws and regulations affecting taxation of railroad property and imposition of unneeded manpower requirements. A careful study should be made of the cost burden paid by railroads for construction and maintenance of grade separations and crossings to determine an equitable method of sharing the costs between the beneficiaries.

F. - 8

WATERWAYS

The National Governors' Conference supports the establishment of national, uniform standards for safety in the manufacture and maintenance of boats. We support continued State licensing and regulation of boat operators and operations.

We recognize the growing need for ferry boat and water surface transportation systems where these are the least expensive and most practical way of extending transportation connections. We call upon the Federal Department of Transportation to create a Marine Highway System which will aid those parts of the nation in need of water transportation development.

F. - 9

COMMUNICATIONS

The National Governors' Conference recommends to the Congress and to the Federal Communications Commission the full re-examination of the present allocation of the frequency spectrum.

Special attention should be given to the increasing need to allocate radio frequencies for emergency and public services. A special frequency, common throughout the nation, should be established for emergency medical services to facilitate communications between ambulances and hospitals.

F. - 10

COMMERCE

The National Governors' Conference endorses development of a commercial freight rate structure which is non-discriminatory and does not promote inefficiency and we urge Congress to undertake a study to this end. Regulation is vital where only one operator serves an area, or where only one mode is available. However, where greater competition exists, close study should be made of the "zone of reasonableness" method as contrasted with detailed rate setting.

F. - 11

INSURANCE

States have historically had the basic responsibility for regulating the insurance industry. In response to an increasingly felt need, some forty-seven States have enacted auto insurance insolvency fund guarantee laws, providing consumer protection with no loss of state regulatory powers. State response to this problem has again demonstrated insurance regulation need not pass to the federal level.

A subject of growing interest is the establishment of a "no fault" system of automobile insurance. Again, some have argued a uniform national system must be imposed from the federal level. However, we believe if "no fault" is to be adopted, that individual state action and interstate cooperation could produce a "no fault" system which is uniform enough to meet the needs of interstate vehicle accidents and flexible enough to suit the conditions in each State.

States have many automobile accident insurance systems available for study. We urge each State to make an early examination of options available and to achieve maximum interstate coordination in any actions they may take. We note the extensive research and drafting done by the National Conference of Uniform State Law Commissioners and by the Council of State Governments and urge each State to consider this model legislation.

F. - 12

TECHNOLOGY

As the leading technological Nation, the United States generates tremendous new discoveries in many fields including medicine, communication, transportation, and data processing. Federal investment in programs such as space exploration and the supersonic transport involve large sums. Because of this public investment, technical discoveries should become available for maximum public benefit.

The federal government is the major supporter of programs which generate new technologies. There should be a program at the federal level to identify and document the opportunities and problems created by these developments. A vital part of this information system is channels of direct communication between those creating new technology and those seeking to adapt and apply it to public purposes.

To fully complement a federal technology information system, States must act either independently or through regional organizations. Using technically competent people, they must identify and describe problems of importance which could be favorably affected by application of technology.

TECHNOLOGY

Data processing has received the greatest attention to date of any new technology applied to government. A good program requires trained personnel employing specialized equipment within a fully analyzed system. Governments are hampered by the concentration of technicians in industry, by attempts to use non-specialized equipment for specific tasks, and by a tendency to make poor systems move faster instead of establishing superior systems.

There is a need for cooperation among federal, state and local governments to produce the large market required by certain types of technology. Orders from many jurisdictions will reduce unit costs in each, and will make possible the manufacture of highly specialized equipment.

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RESOLUTION OF APPRECIATION

The National Governors' Conference expresses its deep gratitude to Governor Luis A. Ferré, Mr. Rafael Carrión, Jr., and members of the Puerto Rico Host Committee, and Mr. Louis deThomas for their efforts in making this 63rd Annual Meeting, from September 12 to September 15, 1971, in San Juan, Puerto Rico, an unforgettable experience.

We are especially indebted to the Vice President of the United States for taking time from his busy schedule to meet with the Executive Committee, to brief the Governors in informal session, and to address the entire assemblage.

To the special guests from Puerto Rico, from the United States, and from Latin America, the Conference offers its sincere thanks for their outstanding contributions. To all those who participated in the program sessions, the Conference expresses special gratitude. And to all others who helped plan and who carried out the official and social activities, the Conference extends its thanks for the cooperation as well as the special "simpatico" attitude exhibited by the people of Puerto Rico in making this Annual Meeting so productive. We also recognize the special pressures placed on law enforcement officials in Puerto Rico and on the National Guard during recent days, and thank them for the highly professional manner in which they carried out their duties.

The National Governors' Conference also thanks Governor Warren E. Hearnes for his great leadership and for the tremendous job he performed as Chairman this past year.

We express appreciation to the staff of the National Governors' Conference for their fine service during the past year and for the efficient and orderly manner in which this Conference has been handled.

Puerto Rican hospitality for the Governors, their families and their staffs demonstrated, for the whole world to see, that Puerto Ricans are an integral part of the United States and intimately involved in the mainstream of the United States.

Special appreciation also goes to the news media for the extensive coverage of our deliberations. Their professional attitude to inform the public of the United States, Puerto Rico, and the Western Hemisphere confirms once again their serious interest in the discussions of this Conference.

U.S. SENATE,

COMMITTEE ON THE JUDICIARY,
SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURES,
STAFF MEMORANDUM,
APRIL 3, 1972.

Comparison of Benefits for Public Safety Officers Under Public Law 90-291 (5 U.S.C. 8191) and Title III of S. 2994

I. PURPOSE OF MEMORANDUM

Title III of S. 2994 would provide various death and injury benefits to state and local public safety officers under certain circumstances. Title V of S. 2994 would also repeal P.L. 90–291 (5 U.S.C. 8191), which provides state or local police officers killed or injured in enforcing certain federal laws the same benefits received by federal enforcement officers under the same circumstances.

The purpose of this memorandum is to indicate the major differences in

coverage of the two benefits programs.

II. POINTS OF DIFFERENCE

There are five aspects in which the coverage of the two programs differs.

A. Types of employment covered

1. P.L. 90-291: The eligible person must be a "law enforcement officer" not a federal employee as defined in 5 U.S.C. 8101(1). "Law enforcement officer" is defined as one who has a commission from a state or local authority and the attendant powers, such as power to arrest and to carry a weapon. This would probably, but not necessarily be a policeman.

2. Title III: The eligible person is a "public safety officer", which is defined

as

A person who is employed by a State or unit of general local government in any activity pertaining to (a) the enforcement of the criminal laws, crime prevention, control or reduction, including highway patrol, (b) a correctional program, facility or institution, (c) a court having crime jurisdiction, where the activity is determined by the Administration to be potentially dangerous because of contact with criminal suspects, defendants, prisoners or parolees, or (d) firefighting, done voluntarily or otherwise, with or without compensation.

3. Comment: Title III reaches more public safety officers since P.L. 90–291 is largely limited to policemen.

B. Type of activity covered

1. P.L. 90-291: To qualify under P.L. 90-291, the officer must have:

. . . been engaged on that occasion in the apprehension or attempted apprehension of any person (a) for the commission of a crime against the United States, or (b) who at that time was sought by a law enforcement authority of the United States, or (c) who at that time was sought as a material witness in a criminal proceeding instituted by the United States; or (2) a law enforcement officer and to have been engaged on that occasion in protecting or guarding a person held for the commission of a crime against the United States or as a material witness in connection with such a crime; or (3) a law enforcement officer and to have been engaged on that occasion in the lawful prevention of, or lawful attempt to prevent, the commission of a crime against the United States . . .

The benefits will not be denied because the person apprehended or attempted to be apprehended was then sought for the commission of a non-Federal crime.

2. Title III: The death or injury must be the result of "a criminal act in the

line of duty.'

3. Comment: P.L. 90-291 covers law enforcement officers injured while enforcing only federal laws. Consequently, Title III has a broader coverage because state and local public safety officers are more likely to be injured while acting in their normal line of duty, which is the enforcement of state and local laws.

C. Number of potential beneficiaries in event of officer's death

1. P.L. 90-291: Survivors potentially entitled to benefits are the following: spouse (payments to continue until death or remarriage; lump sum equivalent of 24 months' payment awarded upon remarriage); child, sibling, or grandchild, (payments to continue until such beneficiary dies or marries or becomes 18 years of age; if over age 18 and incapable of self-support payments continue until beneficiary becomes capable of self-support; if over age 18 and a student as defined by 5 U.S.C. 8101 payments to continue for so long as the beneficiary continues to be such a student and remains unmarried); dependent parents or grandparents (payments to continue until beneficiary dies, marries, or ceases to be dependent).

2. Title III: Survivors potentially entitled to benefits are the following: spouse, parent, grandparent, step-parent, child, grandchild, siblings of the whole or half-blood, a spouse's parents, a niece or nephew and other persons dependent upon

the income of the victim at the time of his death.

3. Comment: Title III's coverage is broader, since un-related dependents are covered. Title III also covers more categories of relatives than does P.L. 90-291.

D. Types of injuries covered

1. P.L. 90–291: Section 8102(a) states:

(a) The United States shall pay compensation as specified by this subchapter for the disability or death of an employee resulting from personal injury sustained while in the performance of his duty unless the injury or death is—

(1) caused by willful misconduct of the employee;

(2) caused by the employee's intention to bring about the injury or death of himself or of another;

(3) proximately caused by the intoxication of the injured employee. Compensation includes: medical and other expenses (services, appliances, supplies, transportation, et cetera) for any injury; vocational rehabilitation; scheduled awards for permanent or temporary total disability; payments for wage loss due to permanent or temporary partial disability; in case of death; scheduled awards and funeral expenses. Awards are made not only in cases of accidents, but also in cases of diseases proximately caused or aggravated by employment or conditions of employment; disablement is the "loss of use of a member of function of the body" or disfigurement.

2. Title III: Benefits are to be paid only the case of death or dismemberment.

3. Comment: P.L. 90-291 covers more injuries than does Title III.

Of all the injuries actually reported under P.L. 90–291, only one definitely would have qualified for "dismemberment" compensation under Title III, a case in which there was loss of one eye; there were two other cases in which there was some sort of eye injury, but it is not clear if eyesight was lost. Of the 70 reported injuries, there are no dismembered limbs, although one injured officer suffered 100% loss of use of a leg.

Apparently dismemberment is not a common injury or result of injury. Benefits for injuries not resulting in death apparently are more likely under P.L.

90-291 rather than under Title III.

E. Amount of benefits

1. P.L. 90-291: Generally, (a) medical expenses; no limit; (b) total disability: monthly payments of 66\%3\% of monthly pay, plus 8\%3\% if there are any dependents (c) partial disability: monthly payment of 66\%3\% of difference between injured's monthly pay and his wage-earning capacity after the beginning of the disability, plus 8\%3\% if there are any dependents; (c) death: spouse receives 45\% of decedent's monthly pay, plus 15\% for each minor child, total not to exceed 75\% of decedent's monthly pay; if is no surviving spouse, first child receives 35\% and each additional child 15\%, share and share alike, total not to exceed 75\% of decedent's monthly pay; amounts ranging from 10\% to 30\% of pay if beneficiary is other than spouse or child; up to \$800 for funeral expenses; when spouse remarries, spouse receives lump sum equal to 24 times the monthly compensation payment to which she or he was entitled immediately before the remarriage.

All payments are off-set by comparable benefits, if any, received by the officer or his beneficiaries by virtue of his actual employment on that occasion. Consequently, P.L. 90–291 awards supplement benefits received from the state or local government to make the total received no greater than the above-mentioned per-

centages of monthly pay.

2. Title III: The amounts provided are:

Loss:
Death\$50,000
Loss of one hand or of one foot or loss of sight of one eye 25,000
Loss of two or more members or of sight in both eyes 50, 000
3. Comment: The following is information about the awards actually made
under P.L. 90–291 since it's inception in 1968:
Total cases reported 154
Fatalities84
Disabilities 70
Cases approved95
Total number of awards 41

Death cases: Of the 84 fatalities reported, awards were denied in 5 cases because the circumstances of the death did not meet the requirements of the act; no awards were made in 8 cases, because the state or local benefits exceed the federal ceiling; and the decision as to whether to grant an award is pending in 22 cases. Of the cases in which awards have actually been made, two awards consisted only of funeral expenses; 31 awards consisted of monthly payments ranging from \$57 to \$645.38, the average payment being approximately \$249. These payments are supplemental to any state or local benefits.

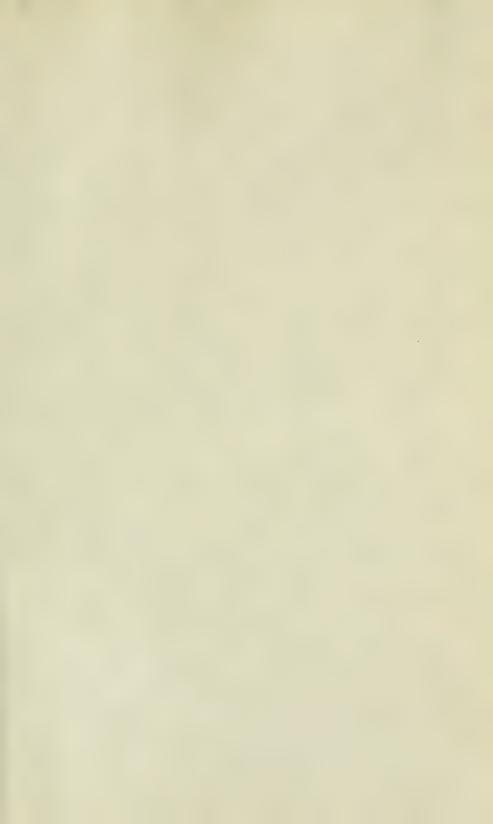
Injury cases: As in the death cases, decisions are pending in a number of injury cases as to whether an award should be granted or what the amount of the award should be; also some claims were denied because the state benefits exceed the federal benefits or the circumstances of the injury did not meet the requirements for eligibility. Of 14 awards actually paid, three were for medical expenses, ranging from \$30 to \$1207, and the remainder were for weekly payments, usually for a specific number of months or years. The smallest such amount is \$5.69 per week for approximately 25 months; the largest is \$333.84 per week for approximately 51/2 years.

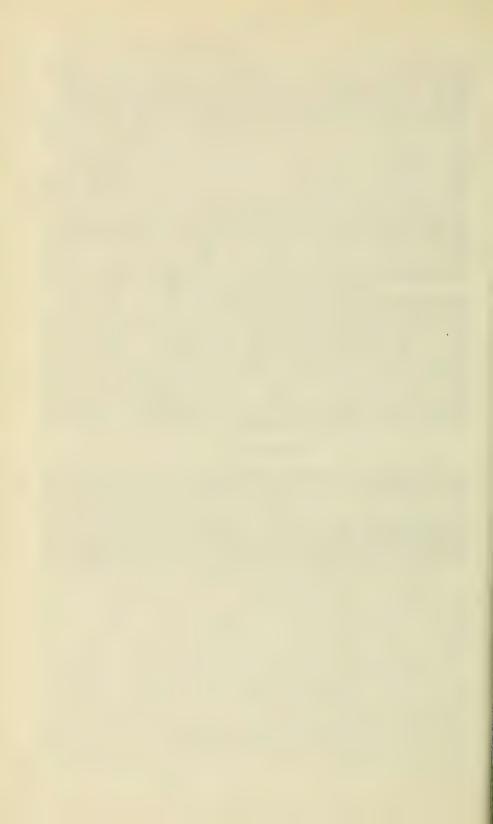
In cases of death and injuries which would qualify for either program, whether P.L. 90-291 would result in greater benefits than Title III depends upon the nature of the injury the salary of the officer and the number of dependents, and the length of time the surviving spouse remained unmarried, etc.

III. CONCLUSIONS

Title V should be amended so P.L. 90-291 would not be repealed since the purpose of that act was to provide state and local officers enforcing federal laws the same benefits received by federal officers under the same circumstances, and Title III does not provide those same benefits.

If P.L. 90-291 is retained, remaining considerations are whether the Title III award should replace the comparable benefits under P.L. 90-291, should be in addition to such benefit, should be discounted in determining the amount of a P.L. 90-291 award, or if an election between the two awards should be required of the beneficiary and how P.L. 90-291's administration should be handled, that is, should the two programs be merged into one department.







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